

TITLE 46
MILITIA AND MILITARY AFFAIRS

CHAPTER 8
MISCELLANEOUS AND GENERAL PROVISIONS

46-801. STATE FLAG. A state flag for the state of Idaho is hereby adopted, the same to be as follows:

A silk flag, blue field, five (5) feet six (6) inches fly, and four (4) feet four (4) inches on pike, bordered with gilt fringe two and one-half (2 1/2) inches in width, with state seal of Idaho twenty-one (21) inches in diameter, in colors, in the center of a blue field. The words "State of Idaho" are embroidered in with block letters, two (2) inches in height on a red band three (3) inches in width by twenty-nine (29) inches in length, the band being in gold and placed about eight and one-half (8 1/2) inches from the lower border of fringe and parallel with the same.

[(46-801) 1927, ch. 261, sec. 12, p. 510; I.C.A., sec. 45-801.]

46-802. UNORGANIZED ASSOCIATIONS PROHIBITED -- PARADES PROHIBITED -- EXCEPTIONS. No body of men, other than the regularly organized national guard, the unorganized militia when called into service of the state, or of the United States, and except such as are regularly recognized and provided for by the laws of the state of Idaho and of the United States, shall associate themselves together as a military company or organization, or parade in public with firearms in any city or town of this state.

No city or town shall raise or appropriate any money toward arming or equipping, uniforming, or in any other way supporting, sustaining or providing drill rooms or armories for any such body of men; but associations wholly composed of soldiers honorably discharged from the service of the United States or members of the orders of Sons of Veterans, or of the Boy Scouts, may parade in public with firearms on Memorial Day or upon the reception of any regiment or companies of soldiers returning from such service, and for the purpose of escort duty at the burial of deceased soldiers; and students in educational institutions where military science is taught as a prescribed part of the course of instruction, may with the consent of the governor, drill and parade with firearms in public, under the superintendence of their teachers. This section shall not be construed to prevent any other organization authorized by law parading with firearms, nor to prevent parades by the national guard of any other state or territory.

[(46-802) 1927, ch. 261, sec. 79, p. 510; 1931, ch. 186, sec. 7, p. 310; I.C.A., sec. 45-802; am. 2002, ch. 146, sec. 1, p. 419.]

46-803. JURISDICTION OF COURTS AND BOARDS PRESUMED. The jurisdiction of the courts and board established by this act shall be presumed and the burden of proof shall rest on any person seeking to oust such courts or boards of jurisdiction in any case or proceeding.

[(46-803) 1927, ch. 261, sec. 81, p. 510; I.C.A., sec. 45-803.]

46-804. MILITARY DIVISION RULES. The military division shall be authorized to promulgate, implement and enforce rules for the administration of the military division and to implement the requirements of this title.

The adjutant general shall be responsible for the enforcement of all rules adopted by the military division. All rulemaking proceedings and hearings of the military division shall be governed by the provisions of [chapter 52, title 67](#), Idaho Code.

[46-804, added 2008, ch. 125, sec. 1, p. 346.]

46-805. YOUTH CHALLENGE PROGRAM.

(1) (a) There is hereby established the Idaho youth challenge program, a multiphased youth intervention program. The program will provide, among other things, a structured, disciplined residential phase of at least twenty-two (22) weeks focusing on education and practical life skills and a post-residential phase of at least twelve (12) months involving skilled and trained mentors supporting graduates and engaged in positive and durable placement of graduates. The youth challenge program shall be focused on assisting participants in achieving a high school diploma or obtaining a general equivalency diploma (GED) and helping to ensure that participants become productive members of society.

(b) The program shall be eligible to receive and expend any moneys provided to the program including, but not limited to, private contributions, federal funds and state alternative school funding. In the event that moneys for any fiscal year are inadequate to fund the youth challenge program, the program shall be discontinued. The decision to discontinue the program due to inadequate funding shall be made by the legislature and the governor in a joint letter provided to the adjutant general and signed by the governor, the president pro tempore of the senate and the speaker of the house of representatives.

(2) The youth challenge program shall be administered by the state adjutant general in conjunction with:

(a) The board of trustees of an appropriate school district of this state; or

(b) A governing board, the members of which shall be nominated by the adjutant general and appointed by the governor.

(3) The program and all program participants shall be governed by all applicable laws, regulations, and guidelines, including but not limited to 32 U.S.C. 509.

(4) (a) In order to be eligible to participate in the program, applicants shall:

(i) Be between the ages of sixteen (16) and eighteen (18) years on the first day of the residential phase. Applicants who are fifteen (15) years old and who will turn sixteen (16) years old during the residential phase may attend if approved by the program director, but such applicants must be enrolled in a high school credit recovery track to allow for their eventual return to high school;

(ii) Be a citizen or legal resident of the United States;

(iii) Be a resident of the state of Idaho;

(iv) Be physically and mentally capable to participate in the program in which enrolled with reasonable accommodation for physical and other disabilities;

(v) Receive a physical examination in conjunction with their enrollment into the program. Such examination must be sufficient to reach a conclusion as to the participant's ability to complete the program with reasonable accommodation only for physical and other

disabilities. The examination may also include testing for substance abuse and pregnancy insofar as directed by department of defense instructions and insofar as such testing does not conflict with state law;

(vi) Be a high school dropout. A high school dropout is an individual who is no longer attending any school and who has not yet received a secondary school diploma or certificate from a program of equivalency for such diploma;

(vii) Be unemployed or underemployed at the time an application is submitted;

(viii) Not be currently on parole or probation for anything other than juvenile status offenses or misdemeanors;

(ix) Not be under indictment or charged with or convicted of a crime that is considered a felony when charged as an adult;

(x) Be free from use of illegal substances and the illegal use of substances; and

(xi) Meet any other criteria applicable to the program as established by federal law, regulation, or agency instruction.

(b) Applicants shall be selected for the program by the youth challenge program board of admissions. Such board shall be appointed by the adjutant general.

(5) The adjutant general is authorized to enter into contracts and to promulgate rules to implement the provisions of this section.

(6) The school district where the youth challenge program is located may take steps to have the youth challenge program be considered and designated as an alternative school.

[46-805, added 2011, ch. 322, sec. 1, p. 938; am. 2012, ch. 234, sec. 1, p. 651; am. 2015, ch. 302, sec. 4, p. 1187; am. 2022, ch. 142, sec. 1, p. 513.]

46-806. MILITARY DIVISION SUPPORT FUND. (1) There is hereby created in the state treasury the military division support fund. Moneys in the fund shall be invested as provided in section [67-1210](#), Idaho Code, and interest earned on investment of idle moneys in the fund shall be credited to the fund. Moneys in the fund shall be continually appropriated.

(2) The adjutant general, or his designee, is hereby authorized to also accept by devise, gift or otherwise and hold as trustee, for the benefit and use of the military division or any part thereof, any property, real or personal. The adjutant general, or his designee, shall be empowered to collect, receive and recover the rents, incomes and issues from the property; and to sell, divest, exchange or transact such property at fair market value; and to otherwise expend fund assets as provided by the terms of the devise or gift, or if not so provided, to expend them for the benefit and use of the military division.

(3) The board of examiners shall have oversight of this fund. The adjutant general shall provide a public annual report, due on the first day of July each year, to the board of examiners disclosing the financial status of the fund, listing all new gifts, bequests, donations and contributions during the prior year as well as all sales or disposals of properties or assets from the fund and every disbursement or other use of the fund.

(a) The board of examiners shall approve all gifts of real property before acceptance by the adjutant general.

(b) The board of examiners shall approve all gifts valued at two hundred fifty thousand dollars (\$250,000) or more before acceptance by the adjutant general.

(c) The adjutant general may, on his or her own initiative, request review and approval by the board of examiners for any other gift prior to acceptance.

(4) The adjutant general may assign military division employees to manage the operation of the fund; and the adjutant general shall request the office of the attorney general to prepare any legal documents required under the provisions of this section.

[46-806, added 2012, ch. 23, sec. 1, p. 77.]

CHAPTER 9
IDAHO NATIONAL GUARD TRUST FUND -- [REPEALED]