

**PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004**

TAB	DESCRIPTION	ACTION	PAGE
1	PRESIDENTS' COUNCIL REPORT	Information Item	1
2	SECOND READING FOR POLICY I.J – Use of Institutions Facilities and Services	Motion to Approve	3
3	APPROVAL OF TEMPORARY AND PENDING RULES FOR MISCELLANEOUS RULES OF THE STATE BOARD OF EDUCATION	Motion to Approve	11
4	APPROVAL OF PROPOSED AND TEMPORARY RULES OF THE STATE BOARD OF EDUCATION AND UNIVERSITY OF IDAHO REGENTS	Motion to Approve	17
5	UNIVERSITY OF IDAHO ALCOHOL WAIVER REQUEST	Motion to Approve	21
6	APPROVAL OF PROPOSED RULES GOVERNING COMMERCIAL DRIVING SCHOOLS	Motion to Approve	35

THIS PAGE INTENTIONALLY LEFT BLANK

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

SUBJECT

President's Council Report.

APPLICABLE STATUTE, RULE, OR POLICY

N/A

BACKGROUND

Monthly report given by the President of the President's Council.

DISCUSSION

N/A

IMPACT

N/A

STAFF COMMENTS AND RECOMMENDATIONS

N/A

BOARD ACTION

This item is for informational purposes only. Any action will be at the Board's discretion.

THIS PAGE IS LEFT INTENTIONALLY BLANK

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

REFERENCE

April 22, 2004	First Reading – Section I. J. Use of Institutional Facilities and Services
October 2, 2003	At the October 2003 Board meeting, the policy was tabled pending a review by the University Attorneys group. Following that input, the draft policy was referred to a committee of the Board for final revisions.

SUBJECT

Second and Final Reading- Section I. J. Use of Institutional Facilities and Services

APPLICABLE STATUTE, RULE, OR POLICY

IDAPA 08.01.08 – Miscellaneous Rules of the State Board of Education

BACKGROUND

Currently, the State Board of Education has in place an IDAPA rule that provides requirements relative to alcohol at public higher education institutions. Previous Boards have provided exceptions to the alcohol rules on a case-by-case basis for certain venues. The Board has approved a proposed change to the IDAPA rule that would allow exceptions to the alcohol prohibition on campus grounds “as provided in the Board’s Governing Policies and Procedures.”

The following principles have guided the development of this policy:

The use of alcohol in appropriate social settings is part of the culture in which we live. Allowing the institutions to manage the use of alcohol in appropriate social settings provides an opportunity to set an example of responsible use.

The best environment for the responsible service of alcoholic beverages is one in which the alcohol is offered in appropriately defined situations, in clearly identified and clearly marked areas, and where age identification is required. This management method provides for the best oversight and management and provides an opportunity for teaching socially responsible use of alcohol.

DISCUSSION

After the October 2003 meeting, representatives of the Board, Board staff and legal counsel discussed amending the proposed additional Section I. J. of the Idaho State Board of Education Governing Policies and Procedures relating to the alcohol policy at institutions of higher education. Additional amendments were made prior to the April 2004 Board meeting, and it was approved for first reading.

After the First reading at the April 2003 meeting, Board staff made some additional amendments to the policy. The amendments can be found in Section I.J.2.a. and are non-substantive in nature.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

BOARD ACTION

To approve for second and final reading of the revisions to Section I. J. Use of Institutional Facilities and Services related to alcohol on campus. This policy will become effective if and when the Board's rules regarding alcohol have been modified to allow for such waivers.

Moved by _____ Seconded by _____ Carried: Yes ____ No ____

Idaho State Board of Education

GOVERNING POLICIES AND PROCEDURES

SECTION: I. GENERAL GOVERNING POLICIES AND PROCEDURES

SUBSECTION: J. Use of Institutional Facilities and Services

J. Use of Institutional Facilities and Services

1. Use of Institutional Facilities and Services

a. Consistent with education's primary responsibilities of teaching, research, and public service, the institutions, under the governance of the State Board of Education and Board of Regents of the University of Idaho (Board), have and will continue to provide facilities and services for educational purposes. Such services and facilities, when provided, should be related to the mission of the institution and not directly competitive with services and facilities reasonably available from the private sector. The institutions' provision of services and facilities should be educationally related. In addition, the Board recognizes that the institutions have a role in assisting community and economic development in a manner that supports the activities of the private sector. To this end, cooperation with local, state, and federal agencies is encouraged.

~~02b.~~ Priority and guidelines for use of institutional services and facilities is as follows:

~~a.~~(1) Institutionally sponsored programs and projects.

~~b.~~(2) Community programs or projects of an educational nature where the services or facilities provided by the institutions are directly related to the teaching, research, or service mission of the institution.

~~c.~~(3) Local, state, or federally sponsored programs and projects.

(4) The institutions will maintain a list of special events, services and facilities provided in those special events, the sponsor's name, the date of the use, and the approximate number of persons attending. This list will be available for public inspection. Individual institutional policies should be adopted in accordance with this general philosophy and policy statement of the Board. To this end, a coordinated effort between the public and private sector is encouraged.

2. Possession, Consumption, and Sale of Alcohol Beverages at Institutional Facilities

a. Board Administrative Rules IDAPA 08.01.08 provides requirements relative to alcoholic beverages on campus grounds. Said rules generally prohibit the possession or consumption of alcoholic beverages in areas open to and most commonly used by the general public on campus grounds. The rules authorize the Board to establish policies under which exceptions to the prohibition may be granted. The chief executive officer

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

of each institution, or his or her designee, may grant a permit for possession or consumption of alcoholic beverages only as permitted by and in compliance with, this policy. The grant of any such permit shall be determined by the chief executive officer ("CEO") or the CEO's designee only in compliance with this Policy and in accordance with the provisions set forth herein, and not as a matter of right to any other person or party. In doing so, the chief executive officer must ensure that the decisions to allow possession and consumption of alcoholic beverages are consistent with the proper image and the mission of the institution.

b. Each institution shall maintain a policy providing for an institutional Alcohol Beverage Permit process. For purposes of this policy, the term "alcoholic beverage" shall include any beverage containing alcoholic liquor as defined in Idaho Code Section 23-105. Waiver of the prohibition against possession or consumption of alcoholic beverages shall be evidenced by issuance of a written Alcohol Beverage Permit issued by the CEO of the institution (or the CEO's designee), which may be issued only in response to a completed written application therefore. Staff of the State Board of Education shall prepare and make available to the institutions the form for an Alcohol Beverage Permit and the form for an Application for Alcohol Beverage Permit, which are consistent with this Policy. Immediately upon issuance of an Alcohol Beverage Permit, a complete copy of the application and the permit shall be delivered to the Office of the State Board of Education, and Board staff shall disclose the issuance of the permit to the Board no later than the next Board meeting. An Alcohol Beverage Permit may only be issued to allow the sale or consumption of alcoholic beverages on public use areas of the campus grounds provided that all of the following minimum conditions shall be met. An institution may develop and apply additional, more restrictive, requirements for the issuance of an Alcohol Beverage Permit.

(1) An Alcohol Beverage Permit may be granted only for a specifically designated event (hereinafter "Permitted Event"). Each Permitted Event shall be defined by the activity planned, the area or location in which the activity will take place and the period of time during which the activity will take place. The activity planned for the Permitted Event must be consistent with the proper image and mission of the institution. The area or location in which the activity will take place must be defined with particularity, and must encompass a restricted space or area suitable for properly controlling the possession and consumption of alcoholic beverages. The time period for the activity must be a single contiguous time period for a separate defined occurrence (such as a dinner, a conference, a reception, a concert, a sporting competition and the like). An extended series of events or a continuous activity with no pre-determined conclusion shall not be a Permitted Event. The

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

area or location of the Permitted Event, the restricted space or area therein for possession and consumption of alcoholic beverages and the applicable time periods for the Permitted Event must each be set forth in the Alcohol Beverage Permit and in the application therefore.

- (2) The serving of alcoholic beverages must be part of a planned food and beverage program for the Permitted Event, rather than a program serving alcoholic beverages only. Food must be available at the Permitted Event. Consumption of alcoholic beverages and food cannot be the sole purpose of a Permitted Event.
- (3) Non-alcoholic beverages must be as readily available as alcoholic beverages at the Permitted Event.
- (4) A Permitted Event must be one requiring paid admission through purchase of a ticket or through payment of a registration fee, or one where admission is by written, personal invitation. Events generally open to participation by the public without admission charges or without written personal invitation shall not be eligible for an alcoholic beverage permit. Only persons who have purchased a ticket or paid a registration fee for attendance at a Permitted Event or persons who have received a written invitation to a Permitted Event will be authorized to possess and consume alcoholic beverages at the Permitted Event.
- (5) Permitted Events, which are generally open to the public through purchase of a ticket (such as sporting events, concerts or other entertainment events), must set out a confined and defined area where alcoholic beverages may be possessed and consumed. For such events, the defined area where alcoholic beverages may be possessed and consumed shall be clearly marked as such, and shall be separated in a fashion that entry into the area and exit from the area can be controlled to ensure that only those authorized to enter the area do so and that no alcoholic beverages leave the area. Only those individuals lawfully attending the Permitted Event who are of lawful age to consume alcoholic beverages may be allowed into the defined area. For such events there shall be sufficient space outside of the area where alcoholic beverages may be possessed and consumed to accommodate the participating public who do not wish to be present where alcoholic beverages are being consumed.
- (6) No student athletic events, (including without limitation NCAA, NIT, NAIA and intramural student athletic events) occurring in college or university owned, leased or operated facilities, or anywhere on

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

campus grounds, shall be Permitted Events, nor shall a Permitted Event be allowed in conjunction with any such student athletic event.

- (7) An Alcohol Beverage Permit for a Permitted Event to which attendance is limited to individuals who have received a personal written invitation, or to those who have registered to participate in a particular conference (for example, a reception, a dinner, an exclusive conference) may allow alcoholic beverages to be possessed and consumed throughout the area of the event, provided that the area of the event is fully enclosed, and provided further that the area of the event must be such that entry into the area and exit from the area can be controlled to ensure that only those authorized to enter the area do so and that no alcoholic beverages leave the area. Additionally, the area of the Permitted Event must not be open to access by the general public, or to access by persons other than those properly participating in the Permitted Event.
- (8) Application for an Alcohol Beverage Permit must be made by the organizers of the event. Such organizers must comply with all applicable laws of the State of Idaho and the local jurisdiction with respect to all aspects of the event, including the possession sale and consumption of alcoholic beverages.
- (9) The Alcohol Beverage Permit, any required local catering permit, and applicable state or local alcoholic beverages permits shall be posted in a conspicuous place at the defined area where alcoholic beverages are authorized to be possessed and consumed.
- (10) The sale, service and consumption of alcoholic beverages at a Permitted Event shall be confined to the specific event, area or activity identified on the Beverage Permit application. Any alcoholic beverages allowed at a Permitted Event shall be supplied through authorized contractors of the organizers (such as caterers hired by the organizers). In no event shall the institution supply or sell alcoholic beverages directly. In no event shall the general public, or any participants in a Permitted Event be allowed to bring alcoholic beverages into a Permitted Event, or leave the defined area where possession and consumption is allowed while in possession of an alcoholic beverage.
- (11) The person/group issued the Beverage Permit and the contractors supplying the alcoholic beverages shall assume full responsibility to ensure that no one under the legal drinking age is supplied with any

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

alcoholic beverage or allowed to consume any alcoholic beverage at the Permitted Event. Further, the person/group must provide proof of insurance coverage, including host liquor liability and liquor legal liability, in amounts and coverage limits sufficient to meet the needs of the institution, but in no case less than \$500,000 minimum coverage per occurrence. Such insurance must list the permitted person/group, the contractor, the institution, the State Board of Education and the State of Idaho as additional insureds, and the proof of insurance must be in the form a formal endorsement to the policy evidencing the coverage and the required additional insureds.

(13) The Alcohol Beverage Permit shall set forth the time at which sale, service, possession and consumption of alcoholic beverages will be permitted, which times shall be strictly enforced. Service and sale of alcoholic beverages shall stop at a time in advance of the time of closure of the event sufficient to allow an orderly and temperate consumption of the balance of the alcoholic beverages then in possession of the participants of the event prior to closure of the event.

(12) These guidelines shall apply to both institutional and non-institutional groups using institutional facilities.

c Within residential facilities owned, leased or operated by an institution, the CEO or CEO's designee may allow the possession or consumption of alcoholic beverages by persons of legal drinking age within the living quarters of persons of legal drinking age. Consumption of alcohol shall not be permitted in the general use areas of any such residence facility. Possession of alcohol within the general use areas of a residential facility may only be done in a facility where consumption has been authorized by the CEO or CEO's designee, and such possession shall be only as is incidental to, and reasonably necessary for, transporting the alcohol by the person of legal drinking age to living quarters where consumption is allowed. The term "living quarters" as used herein shall mean, and be limited to, the specific room or rooms of a residential facility which are assigned to students of the institution (either individually or in conjunction with another room mate or room mates) as their individual living space.

TITLE 33
EDUCATION
CHAPTER 1
STATE BOARD OF EDUCATION

RULES -- EXECUTIVE DEPARTMENT. (1) The state board shall have power to make rules for its own government and the government of its executive departments and offices; and, upon recommendations of its executive officers, to appoint to said departments and offices such specialists, clerks and other employees as the execution of duties may require, to fix their salaries and assign their duties.

(2) Statements of the state board of education and board of regents of the university of Idaho which relate to the curriculum of public educational institutions, to students attending or applicants to such institutions, or to the use and maintenance of land, equipment and buildings controlled by the respective institutions, are not rules and are not statements of general applicability for the purposes of chapter 52, title 67, Idaho Code.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

REFERENCE

August, 2003 The proposed amendment of this rule was approved by the Board at the August 2003 meeting.

SUBJECT

Temporary and Pending Rule Amendment – 08.01.08 Miscellaneous Rules, Docket No. 08-0108-0301.

APPLICABLE STATUTE, RULE, OR POLICY

These rules are promulgated pursuant to the authority of the State Board of Education under Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-2804, 33-3104, 33-3006, 33-4005, and 33-2211, Idaho Code.

BACKGROUND

The miscellaneous rules related to alcohol on campus have been in place since 1993. Previous Boards have provided exceptions to the rules on a case-by-case basis for certain venues. The current rules do not allow for exceptions and should be clarified.

DISCUSSION

With the adoption of Section I. J. Use of Institutional Facilities and Services, the Board has clearly defined under what circumstances alcohol can be served on university campuses. Because the current rule does not clearly allow for any exceptions, a temporary rule that identifies the Board's Governing Policies and Procedures as the method for exception to the rule would clarify the allowed exceptions.

IMPACT

Adoption of the temporary and pending rule will allow universities to utilize the Board's Governing Policies and Procedures to determine the circumstances under which alcohol can be served on campus.

STAFF COMMENTS AND RECOMMENDATIONS

If the Board approves the rule amendments as presented, the rule will then allow the use of the Board's Governing Policy and Procedures to dictate the circumstances under which alcohol can be served on campus.

If the Board rejects the rule amendments as presented, there will be no clear mechanism under which the Board or University/College Presidents can grant exceptions to the rule.

Board staff recommends approval of the rule amendments as presented. Board staff recommends that the rules be approved as temporary and pending.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

BOARD ACTION

A motion to approve Docket No. 08-0108-0301, "Miscellaneous Rules," as temporary and pending rules.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

IDAPA 08
TITLE 01
CHAPTER 08

08.01.08 - MISCELLANEOUS RULES OF THE STATE BOARD OF EDUCATION

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to the authority of the State board of education under Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-2804, 33-3104, 33-3006, 33-4005, and 33-2211, Idaho Code. (6-17-04)T

001. TITLE AND SCOPE.

01. Title. These rules shall be known as IDAP 08.01.08, "Miscellaneous Rules of the State Board of Education". (6-17-04)T

02. Scope. These rules constitute the requirements for miscellaneous rules for public, postsecondary institutions in Idaho. (6-17-04)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 64-5201(10)(b)(iv), Idaho Code, any written interpretation of the rules of this chapter are available at the Board office. (6-17-04)T

003. ADMINISTRATIVE APPEAL.

Unless otherwise provide for in the rules of the Board or in the State Board of Education Governing Policies and Procedures, all administrative appeals allowed by law shall be conducted as provided herein. (6-17-04)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into these rules. (6-17-04)T

005. OFFICE—OFFICE HOUR—MAILING ADDRESS AND STREET ADDRESS.

The principal place of business of the State Board of Education is in Boise, Idaho. The mailing address is PO Box 83720, Boise, Idaho, 83720-0037. The Board's street address is 650 West State Street, Room 307, Boise, Idaho, 83702. The office hours are from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. (6-17-04)T

006. PUBLIC RECORDS ACT COMPLIANCE.

This rule has been promulgated in accordance with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and is a public record. (6-17-04)T

007.-- 099.(RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

100. POSSESSION, CONSUMPTION, AND SALE OF ALCOHOLIC BEVERAGES AT PUBLIC HIGHER EDUCATION INSTITUTIONS.

Illegal possession or consumption of alcoholic beverages is prohibited in college or university-owned, leased, or operated facilities and on campus grounds. (7-1-93)

01. General Use Areas. Except as provided in the State Board of Education Governing Policies and Procedures, alcoholic beverages may not be possessed or consumed under any circumstances in areas open to and most commonly used by the general public. These areas include, but are not limited to, lounges, student union buildings, recreation rooms, conference rooms, athletic facilities, and other public areas of college or university-owned buildings or grounds. ~~(7-1-93)~~(6-17-04)T

02. Sale. Except as provided in the State Board of Education Governing Policies and Procedures, ~~S~~sale of alcoholic beverages is prohibited in college or university-owned, leased, or operated facilities and on campus grounds. ~~(7-1-93)~~(6-17-04)T

03. Sanctions. Students who violate this policy will be subject to sanctions established by institutional administration. (7-1-93)

04. Guests And Visitors. Guests or visitors must observe these regulations while on campus or other college or university property. Non-compliance may subject a person to sanctions imposed by the college or university, as well as to the provisions of local and state law. (7-1-93)

TITLE 33
EDUCATION
CHAPTER 1
STATE BOARD OF EDUCATION

33-105. RULES -- EXECUTIVE DEPARTMENT. (1) The state board shall have power to make rules for its own government and the government of its executive departments and offices; and, upon recommendations of its executive officers, to appoint to said departments and offices such specialists, clerks and other employees as the execution of duties may require, to fix their salaries and assign their duties.

THIS PAGE LEFT INTENTIONALLY BLANK

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

SUBJECT

Proposed and Temporary Rule Amendment – 08.01.01, Rules of the State Board of Education and Board of Regents of the University of Idaho – Docket No. 08-0101-0401.

APPLICABLE STATUTE, RULE, OR POLICY

These rules are promulgated pursuant to the authority of the State Board of Education under Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-2804, 33-3104, 33-3006, 33-4005, and 33-2211, Idaho Code.

BACKGROUND

The Board, on occasion, has granted waivers to its rules. There is a waiver allowance in Board rule that allows for waivers of K-12 rules. The current rules that govern higher education issues do not allow for any waivers and need to be clarified.

DISCUSSION

In order to allow the Board the authority to grant exceptions to rules that govern higher education, it would be advisable to implement a proposed and temporary rule that grants the Board this authority.

IMPACT

Adoption of the proposed and temporary rule will clarify that the Board may grant waivers to its rules for higher education.

STAFF COMMENTS AND RECOMMENDATIONS

If the Board approves the rule amendments as presented, the rule will then clearly allow the Board to grant waivers to its rules.

If the Board rejects the rule amendments as presented, there will be no clear mechanism under which the Board can grant waivers to their rules.

Board staff recommends approval of the rule amendments as presented. Board staff recommends that the rules be approved as temporary proposed rules.

BOARD ACTION

A motion to approve Docket No. 08-0101-0401, "Rules of the State Board of Education and Board of Regents of the University of Idaho – Administrative Procedures and Records", as temporary proposed rules.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

IDAPA 08
TITLE 01
CHAPTER 01

**08.01.01 – RULES OF THE STATE BOARD OF EDUCATION AND
BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO -
ADMINISTRATIVE PROCEDURES AND RECORDS**

002.-- 049.(RESERVED).

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to the authority of the State Board of Education under Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-2804, 33-3104, 33-3006, 33-4005, and 33-2211, Idaho Code. (6-17-04)T

001. TITLE AND SCOPE.

01. Title. These rules shall be known as IDAPA 08.01.01, “Rules of the State Board of Education and Board of Regents of the University of Idaho – Administrative Procedures and Records”. (6-17-04)T

02. Scope. These rules govern the rulemaking and contested case procedures as well as procedures for responding to public records requests. (6-17-04)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 64-5201(10)(b)(iv), Idaho Code, any written interpretation of the rules of this chapter are available at the Office of the State Board of Education. (6-17-04)T

003. ADMINISTRATIVE APPEAL.

Unless otherwise provided for in the rules of the State Board of Education or in the State Board of Education Governing Policies and Procedures, all administrative appeals allowed by law shall be conducted as provided herein. (6-17-04)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into these rules. (6-17-04)T

005. OFFICE—OFFICE HOURS—MAILING ADDRESS AND STREET ADDRESS.

The principal place of business of the State Board of Education is in Boise, Idaho. The mailing address is PO Box 83720, Boise, Idaho, 83720-0037. The State Board of Education’s street address is 650 West State Street, Room 307, Boise, Idaho, 83702. The office hours are from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. (6-17-04)T

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

006. PUBLIC RECORDS ACT COMPLIANCE.

This rule has been promulgated in accordance with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and is a public record. (6-17-04)T

007. WAIVERS.

The State Board of Education may grant a waiver of any rule not required by state and federal law. State and federal law includes case law (including consent decrees), statutes, constitutions, and federal regulations. (6-17-04)T

051008. – 049.(RESERVED).

TITLE 33
EDUCATION
CHAPTER 1
STATE BOARD OF EDUCATION

33-105. RULES -- EXECUTIVE DEPARTMENT. (1) The state board shall have power to make rules for its own government and the government of its executive departments and offices; and, upon recommendations of its executive officers, to appoint to said departments and offices such specialists, clerks and other employees as the execution of duties may require, to fix their salaries and assign their duties.

INSTITUTION / AGENCY AGENDA
UNIVERSITY OF IDAHO

REFERENCE

The Board of Regents is currently considering updating rules associated with possession, consumption, and sale of alcoholic beverages at public higher education institutions. The request to serve alcoholic beverages at the 15th annual Goldschmidt Conference would qualify under the proposed new rule, but given the timing of the conference and the implementation date of a possible rule change, approval under the current rule and guidance memorandum is requested to facilitate the planning of the conference.

SUBJECT

The University of Idaho requests Board approval to serve alcoholic beverages (beer and wine) for 15th annual Goldschmidt Conference, May 20-25, 2005, at the University of Idaho.

APPLICABLE STATUTE, RULE, OR POLICY

IDAPA 08.01.08 – Miscellaneous Rules of the State Board of Education Section 100. Possession, Consumption, and Sale of Alcoholic Beverages at Public Higher Education Institutions.

November 18, 1993 State Board of Education “Guidelines for Enforcement and Monitoring of Alcohol Rule”

Consumption of Alcohol is prohibited in general-use areas open to and commonly used by the general public, as defined in IDAPA 08.01.08.100.01 and “is permitted only in living quarters of persons of legal age . . . and other appropriate areas designated by campus presidents upon Board approval.” (Guidelines).

BACKGROUND

The 15th annual Goldschmidt Conference will bring over 1,200 participants from around the world to the State of Idaho, the University of Idaho campus, Moscow and surrounding communities.

The Goldschmidt Conference is in its fifteenth year and has been hosted in Copenhagen, Denmark; Hot Springs, Virginia; Davos, Switzerland; and Karashiki, Japan over the past four years.

The Goldschmidt Conference is the premier annual meeting in geochemistry and mineralogy. This meeting at the University of Idaho will cover the full range of geochemistry and mineralogy topics. (See www.uidaho.edu/gold2005 for details.) The Conference also takes place during the bicentennial of the Lewis and Clark expedition - the Corps of

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

Discovery, which is the genesis of the theme of the meeting, "Voyage of Discovery."

Historically, the conference has hosted an elegant reception on opening night for conference attendees and their guests. Additionally, the conference conducts a poster session and nightly dinners. Each event customarily includes alcoholic beverage service with the dinners or receptions. A large percentage of the participants will be international and many will have the expectation of alcoholic beverages being served with receptions and meals. Due to the size of the group, the University of Idaho is the only entity within the community capable of providing a space large enough for the conference.

The ability for the State of Idaho, Moscow community and the University of Idaho to host the conference is contingent upon the approval to serve alcoholic beverages during receptions and dinners. Planned UI campus locations for the receptions and dinners are the ASUI Kibbie Dome and the Memorial Gym.

If the request to serve alcoholic beverages (beer and wine) is not approved, the conference will be moved to another site, and unfortunately outside of Moscow and the State of Idaho. This, of course, will have a direct economic impact on the university, community and the state. The Goldschmidt conference is selecting this region because of the uniqueness of the region, the celebrations of the Lewis and Clark bicentennial and appeal of the State of Idaho conference attendees.

DISCUSSION

The University of Idaho seeks authorization to provide alcohol (beer and wine) service during the Goldschmidt conference for dinner and reception events as part of the program. The university will have in place the following control measures:

1. Alcohol Service will be provided by the Sodexo, the university contracted food service provider.
2. By the current food service contract, Sodexo carries liability insurance of not less than \$5,000,000 and indemnifies the State of Idaho, the Regents of the University of Idaho and the University of Idaho. Sodexo holds the proper permits and licenses to carry out the service of alcohol.
3. The agreement entered into between the University and the Goldschmidt Conference will require the conference to purchase and provide proof of liability and property damage insurance in the amount of \$1,000,000. The institution, the Board of Regents, and the State of

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

Idaho will be listed as additional insureds as a formal endorsement to the policy.

4. Only registered conference attendees will be allowed to attend receptions and dinner events. Attendees will be identified through badges issued to each participant.
5. ID checks will occur at each of the receptions and all underage attendees name badges will be marked for identification.
6. All events will provide food and non-alcoholic beverages.
7. It is anticipated that 1-2% of the conference attendees will be under the age of 21.

IMPACT

The Goldschmidt Conference is expected to have a positive economic impact of approximately \$1,300,000 in the state and local community. The academic conference will provide an opportunity to expose worldwide participants to the university, state and region, with an anticipated regional recreational impact both pre- and post-conference, as well as show-casing the University of Idaho for future undergraduate and graduate recruitment.

STAFF COMMENTS AND RECOMMENDATIONS

This item is being presented to the Board because of the uncertainty of the adoption of the Alcohol Policy (I.J.) currently before the Board on Second Reading.

Should the Alcohol Policy not be approved at this meeting, the Board would need to grant a waiver to the University to serve alcoholic beverages (beer and wine) for 15th annual Goldschmidt Conference, May 20th-25th, 2005.

Should the Alcohol Policy and temporary rule change be approved at this meeting, the request would be moot. Board staff feels it would fall under the provision of Section I.J.2.b(4) of the new Alcohol Policy.

Board staff would recommend approval of this waiver request if the Alcohol Policy and rule change is not approved.

BOARD ACTION

A motion to authorize the University of Idaho to serve alcoholic beverages during the Goldschmidt conference scheduled for May 20th-25th, 2005.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

AND

A motion to approve the Findings of Fact and Conclusions of Law in support of the University of Idaho's request to serve alcoholic beverages during the Goldschmidt conference scheduled for May 20th-25th, 2005.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

Adopted by the Regents of the University of Idaho, November 18, 1993

**GUIDELINES FOR ENFORCEMENT AND
MONITORING OF ALCOHOL RULE**

I. Statement of Purpose

These guidelines are intended to provide greater consistency in interpretation, enforcement and sanction related to the State Board of Education and Board of Regents of the University of Idaho alcohol rule. Each higher education institution under the jurisdiction of the Board should take steps to implement these guidelines.

By June 1, 1994, Lewis-Clark State College, Eastern Idaho Technical College, the University of Idaho, Idaho State University, and Boise State University shall submit to the State Board of Education a comprehensive plan to address the consumption and possession of alcoholic beverages on campus, including under-age drinking. Each year thereafter, the institutions shall report on the implementation and effectiveness of the plan. The plan shall specifically address how the institution implements the Board rule and the requirements of the Drug Free Workplace Act and the Drug Free Communities and Schools Act. North Idaho College and the College of Southern Idaho are encouraged to comply with these guidelines.

II. Interpretation

Consumption of alcohol is prohibited in general use areas as defined in IDAPA 08.01.08.100.01 and is permitted only in living quarters of persons of legal age (individual dormitory rooms and presidential residences) and other appropriate areas designated by campus presidents upon Board approval.

Distribution of alcohol to a minor is prohibited at all locations.

Institutions should make it clear that students are considered adults and are expected to be responsible for their own behavior. Institutions should point out that institutions of higher education face the same problems, including alcohol abuse, the society in general faces.

Institutions shall cooperate with law enforcement officials in their endeavors to enforce the state law and local ordinances.

III. Enforcement

Each institution shall identify a person who is responsible and accountable

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

for monitoring/enforcing rules, policies, and programs related to the consumption and sale of alcoholic beverages to students.

Institutions shall apprise students, faculty, alumni and the general public of their intent to enforce the Board rule and these guidelines.

A clear means of reporting violations to university officials and/or law enforcement agencies shall be developed and implemented.

Institutions shall adopt policies requiring that student and employee organizations affiliated with the institution adopt and enforce policies consistent with the Board's rule and these guidelines as a condition of affiliation with the institution.

IV. Sanctions

A. First Infraction

The institutions shall establish infractions and sanctions as clearly delineated as possible relating to any first infraction.

B. Second Infraction

Infraction

1. Without injury; or without conduct likely to lead to injury.
2. With injury; or conduct likely to lead to injury.

Sanction

1. Referral to judicial council or similar authority for action, which must include a treatment and/or education program.
2. Referral to the proper administrative body of the institution for action must include notification to the criminal justice system, strict probation, and a treatment or education program.

C. Third Infraction

Infraction

1. Without injury; or without conduct likely to lead to injury.

Sanction

1. Referral to the appropriate administrative body of the institution for appropriate action, which must include at least suspension from school for one semester.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

- | | |
|--|--|
| 2. With injury; or conduct likely to lead to injury. | 2. Referral to the appropriate administrative body of the institution for action, which must include at least referral to the criminal justice system and expulsion from the institution for one year. |
|--|--|

V. Education

The institutions shall maintain well publicized educational programs aimed at alcohol/drug abuse prevention and treatment.

The Board shall encourage the development of alcohol/drug abuse prevention and treatment programs by identifying effective programs and by providing the necessary funding.

The Board encourages the institutions to provide staff doctors, psychiatrists, psychologists, counselors, and resident advisors in every campus or affiliated residence appropriate to student populations.

IDAPA 08 TITLE 01 CHAPTER 08

08.01.08 - MISCELLANEOUS RULES OF THE STATE BOARD OF EDUCATION

000. -- 099.(RESERVED).

100.POSSESSION, CONSUMPTION, AND SALE OF ALCOHOLIC BEVERAGES AT PUBLIC HIGHER EDUCATION INSTITUTIONS.

Illegal possession or consumption of alcoholic beverages is prohibited in college or university-owned, leased, or operated facilities and on campus grounds. (7-1-93)

01. General Use Areas. Alcoholic beverages may not be possessed or consumed under any circumstances in areas open to and most commonly used by the general public. These areas include, but are not limited to, lounges, student union buildings, recreation rooms, conference rooms, athletic facilities, and other public areas of college or university-owned buildings or grounds. (7-1-93)

02. Sale. Sale of alcoholic beverages is prohibited in college or university-owned, leased, or operated facilities and on campus grounds. (7-1-93)

03. Sanctions. Students who violate this policy will be subject to sanctions established by institutional administration. (7-1-93)

04. Guests And Visitors. Guests or visitors must observe these regulations while on campus or other college or university property. Non-compliance may subject a person to sanctions imposed by the college or university, as well as to the provisions of local and state law. (7-1-93)

101. -- 999.(RESERVED).

**PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004**

BEFORE THE IDAHO STATE BOARD OF EDUCATION

In the Matter of University of Idaho's)	
Request for Board Approval to)	FINDINGS OF FACT
Serve Alcoholic Beverages During the)	AND
Goldschmidt Conference_____)	CONCLUSIONS

WHEREAS, on the ___ day of June, 2004, the above referenced matter came before the Idaho State Board of Education and Board of Regents of the University of Idaho, (hereafter "the Board"); and

WHEREAS, University of Idaho has presented a proposal to authorize the consumption of alcoholic (beer and wine) beverages during the 15th annual Goldschmidt Conference scheduled May 20th – 25th, 2005 held in the community of Moscow and on the University of Idaho Campus (hereafter referred to as "proposal"); and

WHEREAS, Board authorization to serve alcohol during the conference is necessary under the existing general rule (IDAPA 08.01.08.100), and Guidelines (November 18, 1993 "Guidelines for Enforcement and Monitoring of Alcohol Rule"), which generally prohibit the consumption of alcohol in general use areas open to the general public; and

WHEREAS, the proposal and related documents are part of the record herein.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

NOW THEREFORE, after considering the proposal, including the oral presentation and written documents presented therewith, the Board adopts the following Findings of Fact and Conclusions:

FINDINGS OF FACT

1. The Goldschmidt Conference is a premier annual academic meeting in geochemistry and mineralogy. This meeting at the University of Idaho will cover the full range of geochemistry and mineralogy topics. (See www.uidaho.edu/gold2005 for details). The conference also takes place during the bicentennial of the Lewis and Clark expedition - the Corps of Discovery, which provides the theme of the meeting, "Voyage of Discovery."
2. The local organizing committee is inviting participants from around the world to come on a voyage to discover the latest in the fields of geochemistry and mineralogy, and the superb geology and unparalleled opportunities for outdoor recreation in the Inland Northwest.
3. The Goldschmidt conference will provide an opportunity to showcase the University of Idaho and the region and provide exposure for undergraduate and graduate recruitment.
4. University of Idaho has conducted summer academic conferences on the university campus for a number of years.
5. University of Idaho summer conferences provide a major economic benefit to the Moscow community, region and state; the Goldschmidt Conference is estimated to have an economic impact of approximately \$1,300,000.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

6. The proposal includes adequate safety and control measures including:
identification verification at receptions and dinners, control of service areas during receptions, and distribution of alcoholic beverages by a professional, contracted food service provider, Sodexho. Sodexho also will be the responsible party for checking identification and ensuring underage drinking does not occur and for placing limitations on the access to service areas. The University of Idaho will see that Sodexho will obtain or has required state and/or local permits and will require strict enforcement of alcohol-related laws.
7. The proposed conference will be an economic benefit to the university and the community.
8. By the current food service contract, Sodexho carries liability insurance of not less than \$5,000,000 and indemnifies the State of Idaho, the Regents of the University of Idaho and the University of Idaho. Sodexho holds the proper permits and licenses to carry out the service of alcohol.
9. The agreement entered into between the University and the Goldschmidt Conference will require the conference to purchase and provide proof of liability and property damage insurance in the amount of \$1,000,000. The institution, the Board of Regents, and the State of Idaho will be listed as additional insureds as a formal endorsement to the policy.
10. The university will negotiate and require such other contractual, safety, and control measures, as its President may deem advisable.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

CONCLUSIONS

Having found as stated above, the Board concludes that it is appropriate to authorize the service of alcohol as requested, and hereby approves the request to serve alcoholic beverages, limited to beer and wine, during the 15th Annual Goldschmidt Conference scheduled for May 20th – 25th 2005, at the University of Idaho.

APPROVED by the Board on the ___ day of June 2004.

Roderic W. Lewis, President
Idaho State Board of Education

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

May 18, 2004

Mr. Rod Lewis, President
Idaho State Board of Education
P.O. Box 83720
Boise, ID 83720-0037

Re: Goldschmidt Conference

Dear President Lewis:

On behalf of the Government Affairs Committee of the Moscow Chamber of Commerce, I want to thank you and the Idaho State Board of Education for your consideration and support for the 15th annual Goldschmidt Conference to be held at the University of Idaho in May of 2005. The Moscow Chamber of Commerce fully supports the University of Idaho's proposal to allow the consumption of alcoholic beverages at this important conference.

The Goldschmidt Conference will bring a new level of prestige and recognition to the geological science program at the University of Idaho. Additionally, an international conference of this size will have an estimated economic impact of \$1.3 million dollars to the Moscow business and hospitality community and further identify Moscow and the University of Idaho as a place to host future conferences and events.

We look forward to your favorable consideration of the Goldschmidt Conference alcohol proposal. Thank you.

Sincerely,

Mark Boehne, Chair
Government Affairs Committee

THIS PAGE IS LEFT INTENTIONALLY BLANK

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

REFERENCE

June 27, 2002 An amendment to both the Public and Commercial Driving School Rules was brought to the Board for their review and approval. The Board voted to approve the amendments to the Public Driving School Rules but did not approve the amendments to the Commercial Driving School Rules.

SUBJECT

Redrafting of the Commercial Driving School Rules. The current Driver and Traffic Safety Administrative Manual has been in place since October 17, 1996.

APPLICABLE STATUTE, RULE, OR POLICY

The Commercial Driving School Manual is incorporated by reference into IDAPA 08.02.02, "Rules Governing Uniformity." Further, Section 49-2102, Idaho Code requires the State Board to adopt rules concerning the administration and enforcement of Commercial Driving Schools.

BACKGROUND

Prior to 2002, Commercial and Public Driving Schools were governed by the same standards as set out in the Driver Education Manual and incorporated by reference into Board rule. In 2002, the Department of Education redrafted the manual and brought it to the Board for approval. While the Public Driving Schools were in agreement with the proposed amendments, the Commercial Driving Schools were not. At that time, the Department formed a Steering Committee of the Commercial Driving Schools in an attempt to come to consensus on the text of the manual.

DISCUSSION

After the Steering Committee was formed, several negotiated rulemaking meetings were held. Staff from the State Board of Education facilitated the meetings. The Department and the Steering Committee are to be commended for the many hours they spent working to come to consensus on the text of these rules. Both parties were able to come to consensus on most of the text found in these rules. However, there are still some areas of disagreement.

For the first time, the Commercial Driving Schools will be governed by separate and different requirements than those governing Public Driving Schools. These rules govern licensing of schools and instructors; vehicles, student records; education and training programs; and set out hearing requirements for suspension, revocation, or denial of licenses.

In general the Commercial Driving Schools feel the Department has too much latitude in overseeing their programs. Commercial Driving Schools desire more flexibility in their programs and ability to teach student drivers. The Department is concerned about the education that student drivers receive when there is little oversight from their office. Until now, Commercial Driving Schools have always

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

had the same requirements as Public Driving Schools. Commercial Driving School businesses have increased rapidly over the past few years and both parties agree there is a need for amendment to these rules.

IMPACT

If the Board approves the Commercial Driving School Rules, and the Legislature concurs, all Commercial Driving Schools will be required to comply with the requirements.

If the Board rejects the Commercial Driving School Rules, Commercial Driving Schools will remain under the requirements currently set out in the Driver and Traffic Safety Administrative Manual dated October 17, 1996.

STAFF COMMENTS AND RECOMMENDATIONS

While an attempt was made to come to total consensus on these rules, in some areas the Department and the members of the Steering Committee were unable to do so. Furthermore, other Commercial Driving School owners are not in agreement with some of those amendments agreed to by the committee.

There is still misunderstanding concerning the need for the best education for driving training students and the need for the Commercial Driving Schools to have as much flexibility as needed to meet the needs of their clients. The main areas of disagreement are as follows:

Section 9.3.a – The Department wishes this section to read “six (6) weeks and forty-two (42) calendar days”, while the Steering Committee wishes it to read “thirty (30) days. “

Section 9.4.f – The Department wishes this section to read “shall not exceed (10) hours per week”, while the Steering Committee wishes it to read “fifteen (15) hours per week.”

Section 9.4.g – The Department wishes this section to read “shall not exceed two (2) hours per day while school is in session and three (3) hours per day when school is not in session”, while the Steering Committee wishes it to read “three (3) hours per day.”

The Department feels very strongly that when school is in session, students already have too much class time and extra curricular activities to allow them to complete the course in a thirty-day time frame or to be in class for more than two hours per day. The Department cited several studies that indicated student learning is inhibited when they are in class for extended periods of time and that the students are not learning at peak ability levels. On the other hand, Commercial Schools are there to fill a need. Most students who utilize Commercial Schools do so because they are unable, for various reasons, to attend the Public Schools. The Public Driving Schools are limited in both time

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

availability and length of time in offering their courses. Commercial Schools feel very strongly that they should have as much flexibility as possible to meet the needs of their clients.

During negotiations, Board staff heard and understood both sides of this issue. While Board staff understands the need for Commercial Schools to have flexibility, Board staff also understands the need for student drivers to fully understand the great responsibility being placed on them as student drivers. If they are given too much information too quickly, it becomes difficult for them to retain all this information. With that in mind, and as you can see from the attached draft, Board staff has attempted to reach a middle ground between the Department and the Commercial Schools.

The final main area of disagreement is found in Section 9.5.e. The Department wishes this Section to read "at least three (3) hours must be conducted during daylight," while the Steering Committee does not believe there should be any restriction.

The Department feels that as new student drivers, some of that time needs to be spent during daylight hours. Night driving is more difficult and therefore some time needs to be spent behind the wheel before attempting night driving. For those Commercial Schools in northern Idaho, this becomes very difficult to do during winter hours. Because it gets dark at 4:00 p.m., it is difficult to schedule times during daylight hours.

Once again, Board staff heard and understood both sides of this issue. Board staff believes there would be enough weekend daylight time for students to receive at least two hours of daylight behind-the-wheel instruction. Therefore, Board staff is recommending two (2) hours during daylight.

Board staff recommends approval of the Commercial Driving School Rules as submitted.

BOARD ACTION

A motion to approve the Commercial Driving School Manual and incorporate it by reference into Governing Uniformity State Board of Education Rules:

Moved by _____ Seconded by _____ Carried Yes _____ No _____

A motion to reject the Commercial Driving School Manual and incorporate it by reference into Governing Uniformity State Board of Education Rules:

Moved by _____ Seconded by _____ Carried Yes _____ No _____

Draft State Board Rules for Commercial Driving Schools

**Published by the
Idaho State Department of Education**

**P.O. Box 83720
Boise, Idaho 83720-0027**

Commercial Schools. All driver education courses offered in Idaho commercial schools must be conducted in compliance with the requirements set forth in this manual, IDAPA 08.02.02, "Rules Governing Uniformity", Subsection 240.01 and (Title 49, Chapter 21, Idaho Code).

1.0 DRIVING SCHOOL LICENSE

- 1.1 Display of Licenses.** Commercial driving school licenses are not transferable and are to be conspicuously displayed in the principal place of business. All branch locations must meet the same requirements as the principal place of business.
- 1.2 Advertising.** Schools may represent that the school is licensed by the Department, and may use no other words to indicate compliance.

1.3 Applications

All applications for an original or renewal license must be submitted on the most current form provided by the Department. Applications must be submitted at least thirty (30) days prior to licensing. Licensees must submit any change or revision to the information provided in the application within ten (10) working days of any such change or revision. In addition to the requirements set forth in Section 49-2102 and 49-2104, Idaho Code, applications must include a:

1.4 Certificate of Occupancy from the Local Area Fire Marshall or Local Authorized City or County Agency:

- a.** If using a public building, a copy of the certificate issued to the owner of the building.
- b.** If using a private building, a copy of the certificate issued to the owner of that building.
- c.** If using public school facilities, a copy of the certificate is not required.
- d.** The building must meet the standards set forth in the American with Disabilities Act if services are provided to disabled students.

1.5 Certificate of Automobile Insurance:

Certificate of automobile insurance with a minimum of five-thousand dollars (\$5,000) medical insurance, one-hundred thousand dollars (\$100,000) liability, seven hundred fifty thousand dollars (\$750,000) death and injury, and one-hundred thousand dollars (\$100,000) property loss and property damage for each vehicle to be used for training;

1.6 Criminal History Check. All operators of a Commercial Driving School must undergo a criminal history check using the provisions in Section 49-2103, Idaho Code. Operators are required to undergo a criminal history check every five (5) years.

1.7 School Policies. School policies must meet the attendance and passing criteria as established by the Department of Education.

1.8 Course Content Outline and Sequence. A copy of the course content outline and a scope and sequence for both the in-car and classroom instruction.

1.9 Final Knowledge Test. A copy of the school's final knowledge test given to drivers between the ages of fourteen and one-half (14 ½) and seventeen (17); and

1.10 Behind-the-Wheel Skills Test. A copy of the school's final behind-the-wheel skills test and scoring criteria given to drivers between the ages of fourteen and one-half (14 ½) and seventeen (17).

2.0 COMMERCIAL DRIVING SCHOOL VEHICLES

2.1 Annual and Mechanical Vehicle Inspection. Before a vehicle is used for instruction, a qualified mechanic must inspect the vehicle using the *Driver Education Vehicle Inspection Form* provided by the Department. Vehicles not passing the inspection must be placed out of service until the needed repairs or equipment are made and the vehicle passes re-inspection. A qualified mechanic must mechanically inspect vehicles older than twelve (12) months. Mechanical inspections must be completed every twelve (12) months using the *Twelve (12)-Month Vehicle Inspection Form* provided by the Department or a similar form provided by a qualified mechanic. Following any motor vehicle crash involving the vehicle, the School must withdraw the vehicle from the fleet and not use it for instruction until written proof of repairs, by a certified mechanic, has been submitted to the State Department.

2.2 Required Equipment. All motor vehicles used to practice driving lessons must be equipped with:

- a. Dual Control Brake Pedal.** A dual control brake pedal within easy reach of the instructor and capable of bringing the vehicle to a stop in accordance with Section 49-933(7), Idaho Code;
- b. Operating Safety Belts.** Operating safety belts for all occupants;
- c. Rearview Mirror.** An inside rear view mirror for the exclusive use of the instructor;
- d. Side-View Mirror.** Side-view mirror on each side of the vehicle, adjusted for the driver's use; and
- e. Signs.** Safely secured signs that can be seen from outside the vehicle to the rear and both sides of the vehicle;
 - 1) The signs and letters will be of contrasting colors so as to be clearly readable at one hundred (100) feet in clear daylight.
 - 2) Signs to the rear and sides will have "STUDENT DRIVER," "DRIVER EDUCATION," or "DRIVER'S TRAINING" with not less than two (2) inch high lettering. When replacing worn or installing new signs, the lettering will be not less than two-and one half (2 ½) inches high.
 - 3) Signs to both sides of the vehicle will have the name of the driving school with not less than two-inch (2) high lettering. When replacing worn or installing new signs, the lettering will be not less than two-and one half (2 ½) inches high.

3.0 COLLISION/INCIDENT REPORTS

The School must submit a Collision/Incident Report Form to the Department within fifteen (15) days following any incident involving a driver training vehicle that required an investigation and report by law enforcement.

4.0 COMMERCIAL DRIVING SCHOOL FACILITIES

Classrooms will be in compliance with local and state fire, safety, and health codes. Each school must provide classroom space with individual seating and writing space for each student and at least one (1) sanitary facility.

5.0 STUDENT RECORDS

5.1 Report of Students Enrolled. Schools must submit to the Department a report that includes the total number of students enrolled, passed, failed, and those that did not complete the courses during the previous fiscal year between July 1 and June 30. The report must be submitted by August 1 of each year.

5.2 Maintenance of Student Records. Original student records must be made in ink, or inserted into computer records, and updated after each lesson. All original student records must be maintained for a minimum of three (3) years. Student records must be maintained for all students including those who passed, failed, withdrew, cancelled, or transferred. Each student's record must include:

- a. Student's full name, address, and telephone number;
- b. Commercial Training (CT) permit number;
- c. Attendance records; and
- d. In-Car logs must be maintained in ink. The following information shall be available in the vehicle at all times:
 - 1) Student name;
 - 2) Commercial driver training permit number;
 - 3) Emergency contact name and phone number;
 - 4) Instructor's name;
 - 5) Date and clock time of each drive, including the amount of driving and observation time;
 - 6) Skills taught during each drive;
 - 7) Instructor remarks;
 - 8) Student's initials verifying time and date for each drive and observation;
 - 9) Final behind-the-wheel grade; and
 - 10) Special accommodations, if used.

6.0 MONITORING OF COMMERCIAL DRIVING SCHOOLS

The Department shall monitor commercial driving schools and instructors for instructional and administrative compliance with state requirements.

- 6.1 Access To Facilities.** All proposed or licensed commercial driving schools shall allow Department inspectors access to business facilities, equipment, and records with thirty (30) days advance notice. However, if a complaint is filed, Department inspectors shall be allowed access immediately upon notification to the school.
- 6.2 Documentation.** Schools must fulfill requests for documentation within fifteen (15) working days.
- 6.3. Review Provided to the School.** Upon completion of any written review or inspection, the Department shall have fifteen (15) days in which to provide the commercial driving school owner a copy of such report.

7.0 DRIVING SCHOOL INSTRUCTOR LICENSE

- 7.1 General Requirements.** Applicants must be at least twenty-one (21) years of age and have a high school diploma or a GED equivalent. Applicants for an original or renewal license must possess a valid Idaho Class A-D driver license and have a satisfactory driving record. A driving record will be determined satisfactory only if the applicant:
 - a.** Has not received a court suspension or revocation that is not traffic related;
 - b.** Has not been convicted of a traffic violation that carries a mandatory suspension or revocation of the driver's license within the preceding thirty-six (36) months;
 - c.** Has not been convicted of more than one (1) moving traffic violation within any twelve (12) month period of the previous thirty-six (36) months;
 - d.** Has not been convicted for driving while his driver's license was revoked or suspended.
- 7.2 Medical Examination.** Applicants providing in-car instruction must have a medical examination from a licensed medical doctor that is equivalent to the requirements set forth in the Federal Motor Carriers Safety Regulations (CFR 391.41, incorporated as Appendix A) or a current commercial driver license medical certificate.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

- a. The medical exam must indicate whether the applicant has any ailment, disease, or physical or mental disability(ies) that may cause momentary or prolonged lapses of consciousness or control, that is or may become chronic.
- b. Applicants must not be suffering from a physical or mental disability or disease that may prevent the applicant from maintaining reasonable and ordinary control over a motor vehicle or that could impair the applicant's ability to drive safely or instruct automobile drivers.
- c. The medical exam must be renewed every two (2) years.

7.3 Education Requirements. Required course work must be obtained through state agencies or accredited colleges or universities. Required course work may also be obtained through other professional education organizations as approved by the Department.

- a. Applicants for an original license must have completed at least four (4) semester credit hours in driver education consisting of not less than two (2) semester credit hours of classroom driver education techniques and not less than two (2) semester credit hours of in-car, behind-the-wheel practicum of instructional techniques. Applicants must receive an eighty percent (80%) or higher on the educational and instructional techniques. The applicant must provide proof of completion and scores.
- b. Applicants for an original license must have also completed at least eight (8) semester credit hours in the philosophical, psychological, and methodological foundations of education.
- c. The Department will offer guidance and pre-approval of courses for license applicants.

7.4 Proficiency. Applicants for an original license must pass a written test, administered by the Department, with a grade of eighty percent (80%) or higher. The test will include:

- a. Requirements to obtain a driver license in Idaho;
- b. Driver education and training technical content;
- c. Signs, signals, and markings;
- d. Idaho driving laws; and

- e. Instructional techniques.
- f. Applicants for an original license must submit an ITD skills test form that has been administered by an ITD skills tester within the past twelve (12) months, with a passing score of not more than seven (7) penalty points. If the applicant fails the skills test or knowledge test, the applicant must wait three (3) days before retesting.

7.5 Unsatisfactory Review. If there is an unsatisfactory review, at the discretion of the Department, a re-examination of the knowledge or skills may be required for a license renewal.

7.6 Professional Development. Applicants for a renewal license shall demonstrate completion of at least fifteen (15) hours every two (2) years of professional development training in the area of philosophical, psychological, or methodological foundations of education; behind-the-wheel instruction; or classroom driver education techniques obtained through state agencies, accredited colleges or universities, or other professional education organizations as approved by the Department.

- a. The Department shall offer guidance and pre-approval of courses for license holders seeking professional development annually.
- b. The Department shall offer at least fifteen (15) hours every two (2) years of professional development opportunities for driver education school instructor license holders. Additionally, professional development training may be obtained through other state agencies, accredited colleges or universities, or other professional education organizations.

8.0 CELL PHONE USE DURING IN-CAR TRAINING

Cell phone usage while a student is driving is limited to emergency purposes only.

9.0 APPROVED TEEN DRIVER EDUCATION AND TRAINING PROGRAM (TRAINING PROGRAM)

A teen driver between the age of fourteen and one-half (14 ½) and seventeen (17) may enroll in driver education and training to be eligible for a license at age fifteen (15). The commercial driver-training (CT) permit must be purchased before the student participates in any instruction. The following standards are the Approved Teen Driver Education and Training Program.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

9.1 Enrolled Students

- a.** A student is considered enrolled when the student attends the first day of a scheduled class and continues until course completion.
- b.** Schools must not allow for open enrollment, which is defined to mean that once the first three (3) hours of classroom instruction has commenced, no new students shall be enrolled.
- c.** No student will be admitted to class unless they can prove they have purchased a valid permit.

9.2 Late Enrollment. A student may miss the first three (3) hours of instruction, however, the hours missed must be made up before the student can attend the next scheduled class. Enrollment is not permitted after the first three (3) hours have been conducted.

9.3 Minimum Hours and Days

- a.** The Training Program shall be conducted in not less than five (5) weeks/thirty-five (35) calendar days when school is in session and not less than thirty (30) calendar days when school is not in session.
- b.** The course shall include thirty (30) clock hours of classroom instruction, six (6) clock hours of behind-the-wheel instruction, and six (6) clock hours of observation, per Section 49-2102, Idaho Code.
- c.** The thirty (30) clock hours of classroom instruction requires contact with the instructor. Homework assignments completed outside the classroom shall not be counted in the thirty (30) clock hours.

9.4 Scheduling

- a.** Each behind-the-wheel lesson shall be taught in the classroom prior to practicing the lesson during behind-the wheel instruction.
- b.** Classroom instruction shall not be substantially or totally completed before starting in-car practice.
- c.** Two (2) or more separate classes may not be combined into one class unless the lesson taught is consistent with the program's scope and sequence and lesson content outline.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

- d. Before students begin behind-the-wheel instruction on a public roadway, they shall first be given classroom instruction for the basics of:
 - 1) Approaching the vehicle with awareness;
 - 2) Orientation to controls;
 - 3) Use of vision to control the vehicle;
 - 4) Proper use of the steering wheel;
 - 5) Accelerator and brake control;
 - 6) Turning left and right;
 - 7) Signs, signals, and markings; and
 - 8) Rules of the road.
- e. The number of students scheduled per class must not exceed a maximum of thirty-six (36).
- f. Classroom instruction shall not exceed a maximum twelve (12) hours per week when school is in session and fourteen (14) hours per week when school is not in session.
- g. Classroom instruction must not exceed a maximum of two and one-half (2 1/2) hours per day when school is in session and three (3) hours per day when school is not in session.
- h. Classes scheduled for more than two (2) hours per day may provide no more than a five (5) minute break for each hour of instruction that will be counted as class time.
- i. Classroom instruction must not begin earlier than 6 a.m. nor last later than 10 p.m.

9.5. Behind-the-Wheel Driving Time

- a. The maximum behind-the-wheel driving time for each student is sixty (60) minutes per day.
- b. Behind-the-wheel instruction shall not exceed three (3) hours per week.

- c. Behind-the-wheel instruction shall not begin earlier than 6 a.m. nor last later than 10 p.m.
- d. Drive time shall not include time spent driving to pick up or drop off students unless the route meets the objective of the drive lesson.
- e. Of the six (6) hours required for behind-the-wheel driving time, at least two (2) hours must be conducted during daylight.

9.6 Observation Time

- a. Students may observe from the rear seat for a maximum of two (2) hours per day.
- b. The observation times and dates will be verified by the student's signature on an observation log.
- c. The observation log must be kept on file with the student's records.

9.7 Vehicle Occupants

- a. Only the instructor and student driver may occupy the front seats.
- b. In-car instruction must include not less than two (2) or more than three (3) students in the car.
- c. One (1) student may be scheduled when it is determined to be in the best interest of the student. This exception must have prior written permission from the parent or legal guardian.
- d. No person can occupy a rear seat unless involved as a student, parent or guardian, instructor or student enrolled in a driver education teacher preparation course, translator, or supervisor of the driver-training program.

9.8 Multiple-Car Driving Range. Two (2) hours of driving on a multiple-car driving range may be substituted for one (1) hour of behind-the-wheel instruction. No more than three (3) hours of the total six (6) hours may be substituted using multiple-car driving range instruction.

9.9 Simulation Instruction. Three (3) hours using a simulator may be substituted for one (1) hour of behind-the-wheel instruction. No more than three (3) hours of the total six (6) hours may be substituted using simulation instruction.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

- 9.10 Program Substitution.** No more than three (3) hours of the total six (6) hours may be substituted using a combination of multiple-car driving range or simulation instruction.
- 9.11 Make Up Policy.** A make up policy shall ensure that all required hours of instruction and course content are completed. Make up lessons shall be completed prior to taking either the final knowledge or behind-the wheel skills test. Make up lessons may be provided on an individual basis.
- 9.12 Student Instruction Materials**
- a. Each student shall have access to instruction materials during the course. The instruction material shall be equal to, or exceed, the content of a current state-adopted driver education textbook and be compatible with the school's approved curriculum content outline. Textbooks, if used, shall be selected from the list adopted by the Department.
 - b. Each student shall have access to a current copy of the *Idaho Driver's Manual*. The *Idaho Driver's Manual* cannot be the sole source of instructional material
- 9.13 Practice Guide/Log.** Each student or their parent or legal guardian shall be informed of the requirements of the Graduated Driver Licensing law. They shall also be provided with a *Supervision Driver Practice Guide and Log* for their use during the required four (4) months of the Graduated Driver Licensing practice period.
- 9.14 Student List.** A completed Student List of the teen drivers enrolled in the Driver Education and Training Program shall be signed and submitted to the DMV within three (3) business days after class completion.
- 9.15 Transfer Students From Out Of State.** Students completing driver education in another state must have received an equivalent to Idaho's Approved Teen Driver Education and Training Program standards. The documentation must be on an official school form and signed by the instructor or administrator. Students not meeting this standard must complete an Idaho approved Driver Education and Training Program to be eligible for a license before age seventeen (17).

10.0 ASSESSMENTS

The standards for passing the Approved Teen Driver Education and Training Program shall be clearly set forth in writing to students prior to starting the course of instruction.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

- 10.1 Areas Of Assessment.** Students shall be assessed for knowledge, skills, and attitude. A student who fails in any one (1) of the three (3) grading criteria will be failed for the entire course.
- 10.2 Supporting Documentation.** Supporting documentation shall be provided that proves the student was assessed for knowledge and understanding of the classroom lessons.
- 10.3 Course Completion.** Students shall earn a grade of eighty percent (80%) or higher for successful completion of the course.
- a. A final knowledge test shall be administered at the completion of the course.
 - b. A final behind-the-wheel test shall be administered at the completion of the course. Each school shall develop its own standardized form with planned, pre-determined routes for use by the school's instructors.

11.0 SUSPENSION, REVOCATION, OR DENIAL OF COMMERCIAL DRIVER SCHOOL OR INSTRUCTOR LICENSE

- 11.1 Grounds.** The Board may revoke, suspend, or deny any license authorized under Title 49, Chapter 21, Idaho Code, upon any of the following grounds:
- a. Noncompliance with Title 49, Chapter 21, Idaho Code or applicable Board rules;
 - b. Making any material statement of fact in the application for a license that the applicant knows to be false;
 - c. Conviction, finding of guilt, withheld judgment, or suspended sentence, in this state or any other, for a crime involving moral turpitude; or
 - d. Conviction, finding of guilt, withheld judgment, or suspended sentence, in this state or any other, for any felony or other crime listed in Section 33-1208, Idaho Code
- 11.2 Notice And Opportunity For Hearing.** Before denial, revocation, or suspension of a license is final, the Board shall provide opportunity for a hearing as set forth in Title 67, Chapter 52, Idaho Code and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". The applicant, licensee, or their representative may appear and show cause as to why the license should not be denied, suspended, or

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

revoked. Pending final action, or expiration of the appeal period or process, the status quo of the license will be preserved.

- a. The applicant or licensee shall be notified by certified mail of the action to deny, suspend, or revoke a license and the reasons for denial, suspension, or revocation. Such notice will also set forth the applicant or licensee's appeal rights.
- b. If requested in writing by the applicant or licensee within twenty-one (21) days after receipt of the notice to deny, suspend, or revoke a license, the Board shall provide for a hearing.
- c. Any such hearing shall be conducted by an impartial hearing officer appointed by the Board and shall be an individual instructed in conducting administrative hearings.
- d. Notice of time and place of such a hearing shall be given in writing to the person requesting the hearing at least thirty (30) days prior to such hearing.
- e. Any person complained against may appear in person and may be represented by legal counsel, and may produce, examine, and cross-examine witnesses. If he/she chooses to do so, the person complained against may submit, for the consideration of the hearing officer, a statement in writing, in lieu of oral testimony, but any such statement will be under oath and the person complained against will be subject to cross-examination. The hearing officer may determine to suspend, deny, or revoke a license; or may provide a probation with certain conditions to be met before a license shall continue or be granted; or may order a letter of reprimand be sent to the licensee. Any action of the hearing officer will be included in the permanent file of the applicant or licensee.
- f. On the basis of such a hearing, or upon failure of the applicant or licensee to request such a hearing, the Board shall notify, by certified mail to the applicant or the licensee, the final decision to deny, suspend, or revoke approval of the license. The final decision will be a Preliminary Order, and contain the language required by Chapter 52, Title 67, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General", advising the licensee or applicant of any rights for further review of the decision.
- g. The applicant or licensee may appeal the final decision by filing an appeal in District Court within twenty-eight (28) days following receipt of the notification from the Department.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

- h.** Whenever any license has been denied, suspended, or revoked, the Board may, upon a clear showing that the cause constituting grounds for denial, suspension, or revocation no longer exists, issue or reinstate a license either conditionally or unconditionally.

Federal law prohibits discrimination on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, or marital or family status in any educational programs or activities receiving federal financial assistance. (Title VI and VII of the Civil Rights Act of 1964; Title IX of the Educational Amendments of 1972; Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.)

It is the policy of the Idaho State Department of Education not to discriminate in any educational programs or activities or in employment practices.

Inquiries regarding compliance with this nondiscriminatory policy may be directed to State Superintendent of Public Instruction, P.O. Box 83720, Boise, Idaho 83720-0027, (208) 332-6800, or to the Director, Office of Civil Rights, Seattle Office, U.S. Department of Education, 915 Second Ave

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
JUNE 17-18, 2004

IDAPA 08
TITLE 02
CHAPTER 02

003. ADMINISTRATIVE APPEALS.

UNLESS OTHERWISE PROVIDED FOR IN THESE RULES, ADMINISTRATIVE APPEALS ARE BY WRITTEN APPLICATION OT THE STATE BOARD OF EDUCATION PURSUANT TO IDAPA 08.021.01, ~~"RULES GOVERNING ADMINISTRATION RULES OF THE STATE BOARD OF EDUCATION AND BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO – ADMINISTRATIVE PROCEDURES AND RECORDS, SECTION 001050. (7-1-02)()"~~

004. INCORPORATION BY REFERENCE.

The State Board of Education adopts and incorporates into its rules: (4-5-00)

01. Incorporated Document. The Idaho Standards for the Initial Certification of Professional School Personnel as approved on in November 2003. (3-16-04)

02. Document Availability. The Standards are available at the Office of the State Board of Education, 650 W. State St., PO Box 83720, Boise, Idaho, 83720-0037, and can also be accessed electronically at [http:// www.idahoboardofed.org](http://www.idahoboardofed.org). (3-16-04)

03. Incorporated Document. The Standards for Idaho School Buses and Operations as approved on November 15, 2001. (7-1-02)

04. Document Availability. The Standards for Idaho School Buses and Operations are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (7-1-02)

05. Incorporated Document. The Idaho Standards for Public School Driver Education and Training as approved on November 22, 2002. (5-3-03)

06. Document Availability. The Idaho Standards for Public School Driver Education and Training are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (5-3-03)

07. Incorporated Document. ~~The Idaho Driver Education Administrative Manual as approved on October 17, 1996~~ State Board Rules for Commercial Driving Schools as approved on June 17, 2004. (5-3-03)()

08. Document Availability. The Idaho Driver Education Administrative Manual is available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

230. DRIVER EDUCATION.

01. Commercial Schools. All driver education courses offered in Idaho commercial schools must be conducted in compliance with all the requirements in the ~~Idaho Driver Education Administrative Manual as approved on October 17, 1996~~ State Board Rules for Commercial Driving Schools as approved on June 17, 2004. (5-3-03)()

02. Public Schools. All driver education courses offered in Idaho public schools must be conducted in compliance with all the requirements in the Idaho Standards for Public School Driver Education and Training as approved on November 22, 2002. (5-3-03)

TITLE 49
MOTOR VEHICLES
CHAPTER 21
COMMERCIAL DRIVER SCHOOLS

49-2102. SCHOOLS -- LICENSE REQUIRED -- CONTENTS OF APPLICATION FOR LICENSE. No commercial driver training school shall be established nor shall any existing school continue to operate, unless the school applies for and obtains from the state board of education a license in the manner and form prescribed by the state board of education. The application for license shall include a statement of the location of the school, the equipment, courses of instruction, instructors, previous records of the school and instructors, financial statements, schedule of fees and charges, character and reputation of the operators, insurance and such other matters as the state board of education may prescribe for the protection of the public.

THIS PAGE IS LEFT INTENTIONALLY BLANK