

**PLANNING, POLICY & GOVERNMENTAL AFFAIRS  
AUGUST 10-12, 2005**

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| <b>TAB</b> | <b>DESCRIPTION</b>   | <b>ACTION</b>     |
|------------|--|-------------------|
| 1          | PRESIDENT'S COUNCIL REPORT   | Information Item  |
| 2          | NORTH IDAHO COLLEGE PROGRESS REPORT  | Information item  |
| 3          | APPROVAL OF PENDING RULE GOVERNING<br>CHARTER SCHOOLS                                    | Motion to approve |
| 4          | PROPOSED LEGISLATIVE CHANGES   | Motion to approve |
| 5          | SECOND READING – AMENDMENT TO BOARD<br>POLICY I.J.2.b USE OF INSTITUTIONAL<br>FACILITIES | Motion to approve |
| 6          | IDAHO DISTANCE EDUCATION ACADEMY –<br>REQUEST FOR LEA STATUS                             | Motion to approve |

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**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**

**IMPACT**

**STAFF COMMENTS AND RECOMMENDATIONS**

N/A

**BOARD ACTION**

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

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**SUBJECT**

North Idaho College Progress Report

**BACKGROUND**

Periodically, the institutions of higher education in the State of Idaho are requested to provide a progress report to the members of the State Board of Education. It has been just over one year since North Idaho College has supplied an overview of its status and accomplishments.

**DISCUSSION**

Dr. Michael Burke, Ph.D., President of North Idaho College, will in attendance at the meeting and present a summary of the accomplishments and future goals of the college.

**IMPACT**

President Burke's presentation will provide the State Board members and others with current status information about North Idaho College.

**STAFF COMMENTS AND RECOMMENDATIONS**

No staff comments or recommendations are needed at this time.

**BOARD ACTION**

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**SUBJECT**

Approval of Pending Rules Governing Charter Schools.

**REFERENCE**

|                   |   |
|-------------------|---|
| August 12, 2004   | The Board approved the temporary and proposed rules governing Charter Schools.  |
| November 12, 2004 | The Board moved to hold the pending rule and directed staff to prepare another set of rules for adoption at the March meeting |
| March 10, 2005    | The Board approved the temporary and proposed rules governing Charter Schools   |

**APPLICABLE STATUTE, RULE, OR POLICY**

Section 33-5203(6), Idaho Code.

**BACKGROUND**

The legislature approved significant amendments to the state's charter school act during the 2004 legislative session. On April 1, 2004, the Governor signed the bill and the law became immediately effective. The new law requires the State Board of Education to adopt rules, subject to law, to establish a consistent application and review process for the approval and maintenance of all public charter schools.

Subsequent to the publication of the rules, several written comments were received and a statewide public videoconference hearing was held at seven locations around the state. Verbal comments were received.

Rather than adopting the pending rules, President Lewis appointed a Charter Rule Committee to work with Board staff in drafting a new set of rules to be approved at the March 2005 meeting. The committee consists of Laird Stone as Chair, Karen McGee, and Milford Terrell.

**DISCUSSION**

These rules clarify the limitations on new public charter schools and the procedures the Office of the State Board of Education will utilize to track the number of charters being filed. The rules further clarify the assistance that will be provided by the Department of Education and the requirement for charter petitioners to attend a workshop and receive a completed sufficiency review from the Department prior to filing their petition with an authorized chartering entity. The rules also permit the Board to set out petition requirements and model admission procedures. The rules also clearly set out appeal and revocation procedures. Finally, the rules discuss the authority of the Executive Director to designate public charter schools as a Local Education Agency (LEA).

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Subsequent to the publication of the rules, several written comments were received and a public hearing was held at which verbal comments were received. Many of the comments involved subjects covered by the charter school statute, and could not be incorporated. However, some modifications have been made to the original temporary and proposed rule based on written and oral comments that were received. Those modifications are shown in the copy of the rules that are attached. A motion is now before the Board to approve the pending rule.

**IMPACT**

If the Board approves the Rules Governing Public Charter Schools they will become permanently effective at the end of the 2006 legislative session. If the Legislature concurs, all petitioners and Public Charter Schools will be required to comply with the requirements.

If the Board rejects the Rules Governing Public Charter Schools, Public Charter Schools will remain under the requirements currently set out in statute without any further clarification in rule.

**STAFF COMMENTS AND RECOMMENDATIONS**

Board staff recommends approval of the Pending Rules Governing Public Charter Schools.

**BOARD ACTION**

A motion to approve the Pending Rules Governing Charter Schools as presented.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_

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**IDAPA 08**  
**TITLE 02**  
**CHAPTER 04**

**08.02.04 - RULES GOVERNING PUBLIC CHARTER SCHOOLS**

**000. LEGAL AUTHORITY.**

In accordance with Sections 33-105, 33-5203, and ~~33-5213~~ 33-5210(4)(e), Idaho Code, the Board shall promulgate rules implementing the provisions of Title 33, Chapter 52, Idaho Code. ~~(3-10-05)T~~(8-11-05)T

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as IDAPA 08.02.04, Rules Governing Public Charter Schools. (3-10-05)T

**02. Scope.** These rules establish a consistent application and review process for the approval and maintenance of public charter schools in Idaho. (3-10-05)T

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, written interpretations, if any, of the rules of this chapter are available at the offices of the Board. (3-10-05)T

**003. ADMINISTRATIVE APPEALS.**

The provisions found in Sections 400 through 404, of these rules, shall govern administrative appeals of public charter schools. (3-10-05)T

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into these rules. (3-10-05)T

**005. OFFICE INFORMATION.**

**01. Office Hours.** The offices of the Board are open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. (3-10-05)T

**02. Street Address.** The offices of the Board are located at 650 W. State Street, Boise, Idaho. (3-10-05)T

**03. Mailing Address.** The mailing address of the Board is P.O. Box 83720, Boise, Idaho 83720-0037. (3-10-05)T

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**04. Telephone Number.** The telephone number of the Board is (208) 334-2270.  
(3-10-05)T

**05. Facsimile.** The facsimile number of the Board is (208) 334-2632.  
(3-10-05)T

**06. Electronic Address.** The electronic address of the Board is  
[www.idahoboardofed.org](http://www.idahoboardofed.org). (3-10-05)T

**006. PUBLIC RECORDS ACT COMPLIANCE.**

These rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (3-10-05)T

**007. -- 009. (RESERVED).**

**010. DEFINITIONS.**

**01. Authorized Chartering Entity.** Is defined in Section 33-5202A(1), Idaho Code, and means either the local board of trustees of a school district in this state, or the Idaho Public Charter School Commission. (3-10-05)T

**02. Board.** Means the Idaho State Board of Education. (3-10-05)T

**03. Charter.** Is defined in Section 33-5202A(2), Idaho Code, and means the grant of authority approved by the authorized chartering entity to the board of directors of the charter school. (3-10-05)T

**04. Commission.** Means the Idaho Public Charter School Commission, as provided by Section 33-5213, Idaho Code. (3-10-05)T

**05. Department.** Means the Idaho Department of Education. (3-10-05)T

**06. Founder.** Is defined in Section 33-5202A(3), Idaho Code, and means a person, including employees or staff of a public charter school, who makes a material contribution toward the establishment of a public charter school in accordance with criteria determined by the board of directors of the public charter school, and who is designated as such at the time the board of directors acknowledges and accepts such contribution. The criteria for determining when a person is a founder shall not discriminate against any person on any basis prohibited by the federal or state constitutions or any federal, state, or local law. The designation of a person as a founder, and the admission preferences available to the children of a founder, shall not constitute pecuniary benefits. (3-10-05)T

**07. Petition.** Is defined in Section 33-5202A(4), Idaho Code, and means the document submitted by a person or persons to the authorized chartering entity to request the creation of a public charter school. (3-10-05)T

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**08. Petitioners.** Means the group of persons who submit a petition to establish a new public charter school, or to convert an existing traditional public school to a public charter school, as provided by Section 33-5205, Idaho Code, and the procedures described in Sections 200 through 205 of these rules. (3-10-05)T

**09. Public Charter School.** Is defined in Section 33-5202A(5), Idaho Code, and means a school that is authorized under the Public Charter Schools Act, Title 33, Chapter 52, Idaho Code, to deliver public education in Idaho. (3-10-05)T

**10. Public Virtual School.** Is defined in Section 33-5202A(6), Idaho Code, and means a public charter school that may serve students in more than one (1) school district and that provides through which the primary method for the delivery of instruction to all of its pupils primarily is through virtual distance learning or online technologies. (3-10-05)T(8-11-05)T

**11. School Year.** Means the period beginning on July 1 and ending the next succeeding June 30 of each year. (3-10-05)T

**011. -- 099. (RESERVED).**

**100. LIMITATIONS ON NEW PUBLIC CHARTER SCHOOLS.**

**01. Number of New Public Charter Schools Approved for a School Year.** Section 33-5203(2), Idaho Code, limits the number of new public charter schools that may be approved to begin instruction for a school year to not more than six (6), and further limits the number of new public charter schools that may be approved for a single school district for a school year to not more than one (1). The Board shall use the procedure described in Section 100 of these rules for implementing this limitation on the approval of new public charter schools. (3-10-05)T(8-11-05)T

**02. Responsibilities of Petitioners on Grant Approval of Charter.** Upon the approval of a new public charter school by an authorized chartering entity, the petitioners shall be responsible for providing the Board with written notice of such approval, and shall promptly submit a copy of the final approved petition to the Board, as required by Section 33-5206(6), Idaho Code. In addition, in the event the final approved petition charter is revised at any time, as permitted by Section 33-5209(1), Idaho Code, and pursuant to the procedures described in Section 302 of these rules, the governing board of the public charter school shall also be responsible for submitting copies of any such charter revisions to the Board. (3-10-05)T(8-11-05)T

**03. Chronological Numbering System.** The Board, in accordance with Section 33-5206(6), Idaho Code, shall record the date and the time that it receives each approved charter for a new public charter school. In addition, the Board shall assign a number to each approved charter that it receives on a chronological basis, beginning with the numeral "1," and continuing sequentially thereafter. The Board shall maintain a chronological list of

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approved charters for the purpose of determining which public charter schools shall be authorized to begin educational instruction during a given school year. (3-10-05)T

**04. Authorization to Begin Educational Instruction.** The six (6) public charter schools that will be authorized to begin educational instruction during a given school year shall be those public charter schools that have been assigned the lowest chronological number by the Board, and which are eligible to begin educational instruction at some time during such school year. A public charter school will be considered “eligible” in accordance with the preceding sentence if the public charter school has received approval from its authorized chartering entity to begin educational instruction at some time during such school year. In addition, a public charter school will be considered “eligible” only if no other public charter school located within the same school district has been assigned a lower chronological number, and has been approved to begin educational instruction during such school year. A public charter school that is not authorized to begin educational instruction because it is not “eligible,” as described herein, shall maintain its position on the Board’s chronological list of approved charters, and shall be under consideration for authorization to begin educational instruction during the next succeeding school year. A public charter school that is approved by an authorized chartering entity, but which does not begin educational instruction because it is not “eligible,” as described herein, must confirm with the Board, on or before March 1 preceding the next succeeding school year, that it is able to begin educational instruction during such school year. (3-10-05)T

**05. Notification.** The Board shall, as soon as reasonably practicable after determining that a public charter school will be authorized to begin educational instruction during a given school year, provide written notification to the petitioners. The Board shall also send a copy of such notification to the authorized chartering entity that approved the charter. (3-10-05)T

**200. PROCEDURE FOR FORMATION OF A NEW PUBLIC CHARTER SCHOOL.**

**01. Assistance with Petitions.** The Department shall, in accordance with Section 33-5211, Idaho Code, provide technical assistance to public charter school petitioners. The Department shall undertake this statutory responsibility by conducting public charter school workshops, as discussed in Subsection 200.02 of this rule. (3-10-05)T

**02. Public Charter School Workshops.** The purpose of the public charter school workshops shall be to provide public charter school petitioners with a brief overview of a variety of educational and operational issues relating to public charter schools, as well as to answer questions and to provide technical assistance, as may be necessary, to aid petitioners in the preparation of public charter school petitions. ~~Petitioners, or a representative on behalf of petitioners, must attend a public charter school workshop prior to submitting a petition to form a proposed new public charter school with an authorized chartering entity.~~ (3-10-05)T(8-11-05)T

**03. Petition Reviews.** Prior to submitting a petition to an authorized chartering

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entity, petitioners shall submit six (6) copies of the proposed draft petition to the Department, which will review the proposed draft petition to determine whether it complies with statutory requirements. (3-10-05)T

**201. POLICIES AND PROCEDURES ADOPTED BY AN AUTHORIZED CHARTERING ENTITY.**

**01. Charter School Policies and Procedures.** An authorized chartering entity may adopt its own charter school policies and procedures describing the charter school petition process and the procedures that petitioners must comply with in order to form a new public charter school, including a public virtual school. Petitioners must comply with the charter school policies and procedures adopted by the authorized chartering entity with which a petition is submitted. Such charter school policies and procedures must comply with Title 33, Chapter 52, Idaho Code, and the rules promulgated by the Board. If there is any conflict between the charter school policies and procedures adopted by an authorized chartering entity and rules promulgated by the Board, then the Board rules shall govern. (3-10-05)T

**02. Application Deadline.** ~~The date by which a petition~~ Petitioners must be submitted a new petition to an authorized chartering entity by September 1 in order ~~for a proposed new charter school~~ to be eligible to begin operations educational instruction during a given school year shall be not later than the first of February preceding such for the following school year as required by Section 33-5203, Idaho Code. A petition filed after such date may not be rejected by an authorized chartering entity as untimely, but if the petition is approved and the charter is granted, the proposed public charter school will not be eligible to begin operations until the next succeeding school year at the earliest, and only if authorized to begin operations during such school year in accordance with the approval procedure described in Subsection 100.04- of these rules.

~~(3-10-05)T~~(8-11-05)T

**202. PETITION REQUIREMENTS.**

A petition to form a new or conversion public charter school shall be submitted in accordance with instructions, and in such format, as may be required by the authorized chartering entity. Notwithstanding, the petition must include, at a minimum, the information described in Section 33-5205, Idaho Code. (3-10-05)T

**203. ADMISSION PROCEDURES.**

**01. Model Admission Procedures.** In accordance with Section 33-5205(3)(ij), Idaho Code, a petition to establish a new public charter school must describe the admission procedures to be utilized by the public charter school. In order to ensure that public charter schools utilize a fair and equitable selection process for initial admission to and enrollment in a public charter school, as well as admission to and enrollment in a public charter school during subsequent school years, the Board has approved model admission procedures that may be utilized and adopted by petitioners. The approved model admission procedures are described in Subsections 203.03 through 203.12 of these rules. Petitioners are not required

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to adopt the Board's model admission procedures, but must demonstrate a reason for varying from the Board's approved procedures. (3-10-05)T

**02. Enrollment Opportunities.** Section 33-5205(3)(s), Idaho Code, requires petitioners to describe the process by which the citizens in the area of attendance shall be made aware of the enrollment opportunities of the public charter school. Petitioners shall ensure that such process includes the dissemination of enrollment information, ~~printed in both English and Spanish~~ taking into consideration the language demographics of the attendance area, at least three (3) months in advance of the enrollment deadline established by the public charter school each year, to be posted in highly visible and prominent locations within the area of attendance of the public charter school. In addition, petitioners shall ensure that such process includes the dissemination of press release or public service announcements, to media outlets that broadcast within, or disseminate printed publications within, the area of attendance of the public charter school; petitioners must ensure that such announcements are broadcast or published by such media outlets on not less than three (3) occasions, beginning not later than fourteen (14) days prior to the enrollment deadline each year. Finally, such enrollment information shall advise that all prospective students will be given the opportunity to enroll in the public charter school, regardless of race, color, national or ethnic origin, religion, gender, social or economic status, or special needs. (3-10-05)T(8-11-05)T

**03. Enrollment Deadline.** Each year a public charter school shall establish an enrollment admissions deadline, which shall be the date by which all written requests for admission to attend the public charter school for the next school year must be received. The enrollment deadline cannot be changed once the enrollment information is disseminated as required by Subsection 203.02. (3-10-05)T(8-11-05)T

**04. Requests for Admission.** A parent, guardian, or other person with legal authority to make decisions regarding school attendance on behalf of a child in this state, may make a request in writing for such child to attend a public charter school. In the case of a family with more than one (1) child seeking to attend a public charter school, a single written request for admission must be submitted on behalf of all siblings. The written request for admission must be submitted to, and received by, the public charter school at which admission is sought on or before the enrollment deadline established by the public charter school. The written request for admission shall contain the name, grade level, address, and telephone number of each prospective student in a family. If the initial capacity of the public charter school is insufficient to enroll all prospective students, then an equitable selection process, such as a lottery or other random method, shall be utilized to determine which prospective students will be admitted to the public charter school, as described in Subsection 203.09 of this rule. Only those written requests for admission submitted on behalf of prospective students that are received prior to the enrollment deadline established by the public charter school shall be permitted in the equitable selection process. Only written requests for admission shall be considered by the public charter school. Written requests for admission received after the established enrollment deadline will be added to the bottom of the waiting list for the appropriate grade. If there is an opening in one grade, a sibling, if any, from a late submitted application must go to the bottom of the sibling list. (3-10-05)T(8-11-05)T

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**05. Admission Preferences.** A public charter school shall establish an admission preference for students residing in the attendance area of the public charter school, as provided in Section 33-5206, Idaho Code. In addition, a public charter school may establish admission preferences, as authorized by Section 33-5205(3)(i), Idaho Code, for students returning to the public charter school, for children of founders, and for siblings of students already selected to attend the public charter school. Such admission preferences must be approved by the authorized chartering entity and described in the approved charter. (3-10-05)T

**06. Priority of Preferences for Initial Enrollment.** If a public charter school determines to establish admission preferences for initial enrollment of students in a public charter school, then the selection hierarchy with respect to such preferences shall be as follows: ~~(3-10-05)T~~(8-11-05)T

**a.** First, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the initial capacity of the public charter school. (3-10-05)T

**b.** Second, to siblings of pupils already selected by the lottery or other random method. (3-10-05)T

**c.** Third, to prospective students residing in the attendance area of the public charter school. (3-10-05)T

**d.** Fourth, an equitable selection process, such as by lottery or other random method. (3-10-05)T

**07. Priority of Preferences for Subsequent Enrollment Periods.** If a public charter school determines to establish admission preferences for enrollment of students in a public charter school in subsequent school years, then the selection hierarchy with respect to such preferences shall be as follows: (3-10-05)T

**a.** First, to pupils returning to the public charter school in the second or any subsequent year of operation. Returning students are automatically enrolled in the appropriate grade and do not need to be selected by a random selection method. ~~(3-10-05)T~~(8-11-05)T

**b.** Second, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school. (3-10-05)T

**c.** Third, to siblings of pupils already enrolled in the public charter school. (3-10-05)T

**d.** Fourth, to prospective students residing in the attendance area of the public

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charter school. (3-10-05)T

e. Fifth, an equitable selection process, such as by lottery or other random method. (3-10-05)T

**08. Proposed Attendance List For Lottery.** Each year the public charter school shall ~~maintain~~ create an proposed attendance list containing the names of all prospective students on whose behalf a written request for admission was timely received by the public charter school, separated by grade level. In addition, the proposed attendance list shall contain columns next to the name of each student, in which the public charter school will designate admission preferences applicable to each prospective student. The columns shall be designated "A" for returning student preference; "B" for founders preference; "C" for sibling preference, with a corresponding cross-reference to each of the siblings of the prospective student; and "D" for attendance area preference. ~~(3-10-05)T~~(8-11-05)T

**09. Equitable Selection Process.** If the initial capacity of a public charter school is insufficient to enroll all prospective students, or if capacity is insufficient to enroll all prospective students in subsequent school years, then the public charter school shall determine the students who will be offered admission to the public charter school by conducting a fair and equitable selection process. The selection procedure shall be conducted as follows: (3-10-05)T

a. The name of each prospective student on the proposed attendance list shall be individually affixed to or written on a three by five (3 x 5) inch index card. The index cards shall be separated by grade. The selection procedure shall be conducted one (1) grade level at a time, ~~beginning with the highest grade with the order for each grade level selected randomly.~~ The index cards containing the names of the prospective students for the grade level being selected shall be placed into a single container. ~~(3-10-05)T~~(8-11-05)T

b. A neutral, third party shall draw the grade level to be completed first and then draw each index card from the container for that grade level, and such person shall write the selection number on each index card as drawn, beginning with the numeral "1" and continuing sequentially thereafter. In addition, after selecting each index card, the name of the person selected will be compared to the proposed attendance list to determine whether any preferences are applicable to such person. ~~(3-10-05)T~~(8-11-05)T

c. If the name of the person selected is a returning student, then the letter "A" shall be written on such index card. If the name of the person selected is the child of a founder, the letter "B" shall be written on such index card. If the name of the person selected is the sibling of another student that has already been selected for admission to the public charter school, then the letter "C" shall be written on such index card. If the name of the person selected resides in the attendance area of the public charter school, then the letter "D" shall be written on such index card. (3-10-05)T

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**d.** With regard to the sibling preference, if the name of the person selected has a sibling in a higher grade who has already been selected, but the person previously selected did not have the letter "C" written on his or her index card (because a sibling had not been selected for admission prior to the selection of the index card of that person), then the letter "C" shall now be written on that person's index card at this time. (3-10-05)T

**e.** With regard to the founder's preference, a running tally shall be kept during the course of the selection procedure of the number of index cards, in the aggregate, that have been marked with the letter "B." When the number of index cards marked with the letter "B" equals ten percent (10%) of the proposed capacity of the public charter school for the school year at issue, then no additional index cards shall be marked with the letter "B," even if such person selected would otherwise be eligible for the founders preference. (3-10-05)T

**f.** After all index cards have been selected for each grade, then the index cards shall be sorted for each grade level in accordance with the following procedure. All index cards with the letter "A" shall be sorted first, based on the chronological order of the selection number written on each index card; followed by all index cards with the letter "B," based on the chronological order of the selection number written on each index card; followed by all index cards with the letter "C," based on the chronological order of the selection number written on each index card; followed by all index cards with the letter "D," based on the chronological order of the selection number written on each index card; followed, finally, by all index cards containing no letters, based on the chronological order of the selection number written on each index card. (3-10-05)T

**g.** After the index cards have been drawn and sorted for ~~each~~ all grade levels, the names shall be transferred by grade level, and in such order as preferences apply, to the final selection list. ~~(3-10-05)T~~ (8-11-05)T

**10. Final Selection List.** The names of the persons in highest order on the final selection list shall have the highest priority for admission to the public charter school in that grade, and shall be offered admission to the public charter school in such grade until all seats for that grade are filled. (3-10-05)T

**11. Notification and Acceptance Process.** (3-10-05)T

**a.** With respect to students selected for admission to the public charter school, within seven (7) days after conducting the selection process, the public charter school shall send an offer letter to the parent, guardian, or other person who submitted a written request for admission on behalf of a student, advising such person that the student has been selected for admission to the public charter school. The offer letter must be signed by such student's parent, or guardian, and returned to the public charter school by the date designated in such offer letter by the public charter school. ~~(3-10-05)T~~ (8-11-05)T

**b.** With respect to a prospective student not eligible for admission to the public charter school, within seven (7) days after conducting the selection process, the public

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charter school shall send a letter to the parent, guardian, or other person who submitted a request for admission on behalf of such student, advising such person that the prospective student is not eligible for admission, but will be placed on a waiting list and may be eligible for admission at a later date if a seat becomes available. (3-10-05)T

**c.** If a parent, guardian, or other person receives an offer letter on behalf of a student and declines admission, or fails to timely sign and return such offer by the date designated in such offer letter by the public charter school, then the name of such student will be stricken from the final selection list, and the seat that opens in that grade will be made available to the next eligible student on the final selection list. (3-10-05)T

**d.** If a student withdraws from the public charter school during the school year for any reason, then the seat that opens in that grade will be made available to the next eligible student on the final selection list. (3-10-05)T

**12. Subsequent School Years.** The final selection list for a given school year shall not roll over to the next subsequent school year. If the capacity of the public charter school is insufficient to enroll all prospective students during the next subsequent school year, then a new equitable selection process shall be conducted by the public charter school for such school year. (3-10-05)T

**13. Admission Procedures for Approved Charter Schools.** All public charter schools must have an admission procedure approved by their authorized chartering entity, which complies with Section 203 of this rule. (8-11-05)T

**204. SUBMISSION OF PETITION.**

**01. New Public Charter School.** To institute the approval process for the formation of a new public charter school, the petitioners must submit the petition to the local board of trustees of the school district in which the proposed new public charter school will be located, as required by Section 33-5205(1)(a), Idaho Code. (3-10-05)T(8-11-05)T

**02. New Public Virtual School.** The petitioners for a new public virtual school that will serve students in more than one (1) school district in the state may choose to must submit the petition for approval with the Commission, as an authorized chartering entity, as permitted required by Section 33-5203(5) 5205(1)(b), Idaho Code, instead of with the local board of trustees of the school district in which the proposed new public virtual school will be located. (3-10-05)T(8-11-05)T

**03. Notification to the Board.** Petitioners shall promptly notify the Board that a petition has been submitted to an authorized chartering entity. (3-10-05)T

**205. REVIEW OF PETITIONS.**

**01. Initial Review of Petition.** Prior to submitting a petition with an authorized

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chartering entity, petitioners shall submit six (6) copies of the proposed draft petition to the Department, which shall review the proposed draft petition for the purpose of determining whether it was prepared in accordance with the instructions furnished by, and in the format required by, the Board, and contains the information required by Section 33-5205, Idaho Code. (3-10-05)T

**02. Timeframe for Initial Review.** The Department shall complete the initial review of the proposed draft petition as soon as reasonably practicable after the date the proposed draft petition is received by the Department, but not later than thirty (30) days after receipt. (3-10-05)T

**03. Notification of Findings After Initial Review.** The Department shall notify the petitioners promptly in writing describing the results of the initial review of the proposed draft petition, and, if applicable, identify any deficiencies in the proposed draft petition. (3-10-05)T

**04. Substantive Review of Petition.** The substantive review of the merits of a petition by an authorized chartering entity shall be for the purpose of determining whether petitioners have demonstrated compliance with Title 33, Chapter 52, Idaho Code. (3-10-05)T

**05. Timeframe for Substantive Review.** An authorized chartering entity must comply with the procedural requirements described in Section 33-5205, Idaho Code. (3-10-05)T

**a.** Unless a petition is referred to the Commission as authorized by Section 33-5205(1)(a)(iii), Idaho Code, and as discussed in Subsection 206.01 of these rules, an authorized chartering entity must hold a ~~meeting open to the public~~ hearing not later than ~~thirty~~ sixty (360) days after receipt of the petition, for the purpose of considering the merits of the petition, as well as the level of employee and parental support for the proposed public charter school. In the case of a petition being reviewed by the Commission, the ~~meeting~~ public hearing must also include any oral or written comments, if any, from an authorized representative of the school district in which the proposed public charter school would be physically located regarding the merits of the petition and any potential impacts on the school district. (3-10-05)T(8-11-05)T

**b.** An authorized chartering entity must make a decision on whether to approve the petition and ~~grant the charter~~ within sixty (60) days after receipt of the petition ~~the date of the public hearing on the merits of the petition.~~ (3-10-05)T(8-11-05)T

**c.** ~~An authorized chartering entity and the petitioners may mutually agree to extend the date by which a decision is required to be made on the merits of the petition up to an additional sixty (60) days. In addition, the authorized chartering entity may unilaterally determine to extend the date by which a decision is required to be made up to an additional sixty (60) days if it determines the petition is incomplete or fails to contain the requisite~~

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signatures. ~~(3-10-05)~~(8-11-05)T

d. The Commission and the petitioners may mutually agree to extend the date by which a decision is required to be made on the merits of the petition up to an additional ninety (90) days. ~~(8-11-05)~~T

**06. If Approved, Charter Is Granted, Subject to Limitations on Number of New Charters.** ~~(3-10-05)~~(8-11-05)T

a. If a petition is approved, then the authorized chartering entity must promptly prepare for petitioners a written notice of its decision to approve the charter. It shall be the responsibility of the petitioners to provide the Board with this written notice of approval, and with a copy of the final approved petition, in accordance with the procedure described in Section 100 of these rules. (3-10-05)T

b. The ~~grant~~ approval of a charter by an authorized chartering entity does not provide the petitioners with any right to begin educational instruction at the public charter school during a particular school year, or in accordance with the terms and conditions of the charter, as such approval is conditioned upon the limitations on the number of new public charter schools that may be approved to begin educational instruction for a school year, as described in Section 100 of these rules. ~~(3-10-05)~~(8-11-05)T

**07. If Denied, Petitioners May Appeal.** (3-10-05)T

a. If a petition is denied, then the authorized chartering entity must promptly prepare for petitioners a written notice of its decision to deny the charter. The written decision shall include all of the reasons for the denial, and shall also include a reasoned statement that states or explains the criteria and standards considered relevant by the authorized chartering entity, the relevant contested facts relied upon, and the rationale for the decision based on the applicable statutory provisions and factual information presented to the authorized chartering entity. ~~If an authorized chartering entity fails to reach a decision on a petition before the time period by which a decision must be made, then this shall be considered a denial of the petition.~~ ~~(3-10-05)~~(8-11-05)T

b. The petitioners may appeal the decision of the authorized chartering entity, in accordance with the procedures described in Sections 401 through 402 of these rules. ~~(3-10-05)~~(8-11-05)T

**206. WITHDRAWAL OF PETITION; REFERRAL OF PETITION TO THE COMMISSION.**

**01. Referral of Petition by Local Board of Trustees.** A board of trustees of a local school district may refer the petition for consideration to the Commission, as authorized by Section 33-5205(1)(a~~c~~)(iii), Idaho Code. If a board of trustees of a local school district determines to refer a petition to the Commission, then it shall provide prompt notice of such decision to the petitioners. In addition, the board of trustees of a local school district must promptly forward the petition and verification that there are thirty (30)

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signatures from qualified electors from the attendance area to the Commission.

~~(3-10-05)~~T(8-11-05)T

**02. Withdrawal by Charter Petitioners.** Notwithstanding, if a board of trustees of a local school district does not refer a petition to the Commission, the charter petitioners may withdraw the petition from the local board of trustees and submit the petition to the Commission for consideration if, within ~~thirty~~ sixty (360) days after the submission of the petition with the authorized chartering entity, the parties have not reached mutual agreement on the provisions of the ~~charter~~ petition, after a reasonable and good faith effort.

~~(3-10-05)~~T(8-11-05)T

**03. Reasonable and Good Faith Effort.** For purposes of Section 2056.02 of these rules, the parties shall be considered to have established a reasonable and good faith effort to reach mutual agreement on the provisions of the ~~charter~~ petition if representatives of the parties take at least all of the following actions: ~~(3-10-05)~~T(8-11-05)T

**a.** The authorized chartering entity must send written notice to petitioners acknowledging receipt of the charter petition and the date of receipt. ~~(3-10-05)~~T

**b.** The authorized chartering entity posts public notice of ~~an open meeting a public hearing~~ for the purpose of considering the petition, and such meeting is scheduled to occur not later than ~~thirty~~ sixty (360) days after receipt of the ~~charter~~ petition ~~by the authorized chartering entity and verification that there are thirty (30) signatures from qualified electors of the attendance area.~~ (3-10-05)~~T~~(8-11-05)T

**c.** Prior to the date the posted ~~open meeting~~ public hearing is scheduled, representatives of the authorized chartering entity must conduct a review of the ~~charter~~ petition and the State Department of Education sufficiency review of the ~~charter~~ petition, and if immediate concerns with the ~~charter~~ petition are identified, then written notice must be sent to petitioners identifying the concerns and requesting that said identified concerns be addressed. In the event correspondence is sent to petitioners identifying concerns with the ~~charter~~ petition, then petitioners must respond in writing to the authorized chartering entity addressing the identified concerns. ~~(3-10-05)~~T(8-11-05)T

**d.** Either prior to or at the posted ~~open meeting~~ public hearing, representatives from both the authorized chartering entity and petitioners must meet and engage in face-to-face discussions regarding the charter petition. ~~(3-10-05)~~T(8-11-05)T

**207. – 299. (RESERVED).**

**300. PUBLIC CHARTER SCHOOL RESPONSIBILITIES.**

**01. General.** The governing board of a public charter school shall be responsible for ensuring that the public charter school is adequately staffed, and that such staff provides sufficient oversight over all public charter school operational and educational activities. In addition, the governing board of a public charter school shall be responsible for

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ensuring compliance with ~~Section 33-5204(1)~~ Title 33, Chapter 52, Idaho Code.

~~(3-10-05)T~~(8-11-05)T

**02. Compliance with Terms of Charter.** The governing board of a public charter school shall be responsible for ensuring that the school is in compliance with all of the terms and conditions of the charter approved by the authorized chartering entity of the school, as reflected in the final approved petition filed with the Board. In addition, the governing board of the public charter school shall be responsible for ensuring that the school complies with all applicable federal and state education standards, as well as all applicable state and federal laws, rules and regulations, and policies. (3-10-05)T

**03. Annual Reports.** The governing board of a public charter school must submit an annual report to the authorized chartering entity of the school, as required by Section 33-5206(7), Idaho Code. The report shall contain the audit of the fiscal and programmatic operations as required in Section 33-5205(3)(jk), Idaho Code, a report on student progress based on the public charter school's student educational standards identified in Section 33-5205(3)(b), Idaho Code, and a copy of the public charter school's accreditation report. An authorized chartering entity may reasonably request that a public charter school provide additional information to ensure that the public charter school is meeting the terms of its charter. (3-10-05)T

**04. Operational Issues.** The governing board of the public charter school shall be responsible for promptly notifying its authorized chartering entity if it becomes aware that the public charter school is not operating in compliance with the terms and conditions of its charter. Thereafter, the governing board of the public charter school shall also be responsible for advising its authorized chartering entity with follow-up information as to when, and how, such operational issues are finally resolved and corrected. (3-10-05)T

**301. AUTHORIZED CHARTERING ENTITY RESPONSIBILITIES.**

**01. Compliance Monitoring.** Notwithstanding Section 300 of these rules, the authorized chartering entity of a public charter school shall be responsible for ensuring that the public charter school operates in accordance with all of the terms and conditions of the charter approved by the authorized chartering entity, as reflected in the final approved petition filed with the Board, and as provided by Section 33-5209(1), Idaho Code. The authorized chartering entity also shall be responsible for ensuring that the public charter school program approved by the authorized chartering entity meets the terms of the charter, complies with the general education laws of the state, unless specifically directed otherwise in Title 33, Chapter 52, Idaho Code, and operates in accordance with the state educational standards of thoroughness as defined in Section 33-1612, Idaho Code, as provided in Section 33-5210(2), Idaho Code. (3-10-05)T

**02. Written Notice of Defect.** If an authorized chartering entity has reason to believe that a public charter school has committed any defect identified in Section 33-5209(2)(a) through (e), Idaho Code, then the authorized chartering entity shall provide the public charter school with prompt written notice of such defect, and shall provide the public

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charter school a reasonable opportunity to cure such defect. ~~(3-10-05)T~~(8-11-05)T

**03. Corrective Action Plan.** The public charter school shall provide the authorized chartering entity with a corrective action plan describing the public charter school's plan to cure the defect. The corrective action plan shall describe in detail the terms and conditions by which the public charter school will cure the defect at issue, including a reasonable time frame for completion. The public charter school shall send a copy of the corrective action plan to the Board. (3-10-05)T

**04. Failure to Cure.** If a public charter school fails to comply with the terms and conditions of the corrective action plan and to cure the defect at issue within a reasonable time, then the authorized chartering entity may provide notice to the public charter school of its intent to revoke the charter, as permitted by Section 33-5209(3), Idaho Code, and in accordance with Section 303 of these rules. (3-10-05)T

**302. CHARTER REVISIONS.**

The governing board of a public charter school may reasonably request that its authorized chartering entity revise its charter, as authorized by Section 33-5209(1), Idaho Code. (3-10-05)T

**01. Request for Revision.** The governing board of a public charter school that desires to revise its charter must submit a written request describing the proposed revisions with the public charter school's authorized chartering entity. In addition, the governing board of the public charter school shall also submit six (6) copies of the proposed revisions to the Department, which shall review the proposed revisions in the same manner that it reviews a proposed draft petition, as described in Section 204 of these rules. The Department shall complete its review of the proposed charter revisions not later than thirty (30) days after receipt, and shall notify the governing board of the public charter school and the authorized chartering entity promptly in writing describing the results of such review. ~~If the Department does not complete the review within thirty (30) days after receipt, then the proposed revisions shall be deemed sufficient.~~ ~~(3-10-05)T~~(8-11-05)T

**02. Limited Review.** The authorized chartering entity shall only be permitted to review and consider the proposed revisions to the charter, and shall not have authority to make other charter revisions that are not requested by the public charter school. (3-10-05)T

**03. Procedure for Reviewing Request for Charter Revision.** The authorized chartering entity shall have thirty (30) days from the date of receipt of the written notice from the Department, ~~or the date the revisions are deemed sufficient, whichever is earlier,~~ in which to issue its decision on the request for charter revision. If permitted by applicable policies and procedures adopted by the authorized chartering entity, the review of a request for a charter revision may be delegated to appropriate staff employed by the authorized chartering entity. An authorized chartering entity may, but is not required to, conduct a public hearing to consider the request for charter revision.

~~(3-10-05)T~~(8-11-05)T

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**04. Approval of Proposed Charter Revision.** If the authorized chartering entity approves the proposed charter revision, a copy of such revision shall be executed by each of the parties to the charter contract and shall be treated as either a supplement to, or amendment of, the final approved petition, whatever the case may be. The governing board of the public charter school shall be responsible for sending a copy of the charter revision to the Board, as required by Subsection 100.02 of these rules. (3-10-05)T

**05. Denial of Proposed Charter Revision.** If the proposed revision is denied, then the authorized chartering entity must prepare a written notice of its decision denying the request for charter revision. The decision to deny a request for a charter revision shall contain all of the reasons for the decision. The public charter school may appeal the decision denying the request for charter revision to the Board. The provisions of Section 403 of these rules shall govern the appeal. ~~If an authorized chartering entity fails to reach a decision on a request before the time period by which a decision must be made, then this shall be considered a denial of the request.~~ (3-10-05)T(8-11-05)T

**303. REVOCATION.**

An authorized chartering entity may revoke a charter in accordance with the procedure described in this Section 303 of this rule if a public charter school has failed to cure a defect with respect to the operation of the public charter school, as described in Subsection 301.04 of these rules, after receiving reasonable notice and a reasonable opportunity to cure the defect. (3-10-05)T

**01. Written Notice of Intention to Revoke Charter.** The authorized chartering entity must provide the public charter school with reasonable notice of the authorized chartering entity's intent to revoke the charter, which shall be in writing and must include all of the reasons for such proposed action. In addition, such notice shall provide the public charter school with a reasonable opportunity to reply, which shall not be less than thirty (30) days after the date of such notice. (3-10-05)T

**02. Public Hearing.** The authorized chartering entity shall conduct a public hearing with respect to its intent to revoke a charter. Such hearing shall be held no later than thirty (30) days after receipt of such written reply. If the public charter school does not reply by the date set in the notice, then such hearing shall be held no later than sixty (60) days after the date the notice was sent by the authorized chartering entity. (3-10-05)T

**a.** Written notification of the hearing shall be sent to the public charter school at least ten (10) days in advance of the hearing. (3-10-05)T

**b.** The public hearing shall be conducted by the authorized chartering entity, or such other person or persons appointed by the authorized chartering entity to conduct public hearings and receive evidence as a contested case in accordance with Section 67-5242, Idaho Code. (3-10-05)T

**03. Charter Revocation.** If the authorized chartering entity determines that the

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public charter school has not complied with the corrective action plan and cured the defect at issue, then the authorized chartering entity may revoke the charter. Such decision may be appealed to the Board. The provisions of Section 403 of these rules shall govern the appeal. (3-10-05)T

**304. – 399. (RESERVED).**

**400. APPEALS.**

The following actions relating to public charter schools may be appealed to the Department or to the Board, as applicable, in accordance with the procedures described in Sections 401 through 403 of these rules: (3-10-05)T

**01. Denial of New Petition.** The denial by an authorized chartering entity of a petition to form a new public charter school, as authorized by Section 33-5207, Idaho Code. (3-10-05)T

**02. Grant Approval of Conversion Petition.** The granting approval of a petition by an authorized chartering entity of a petition to convert a traditional public school to a public charter school over the objection of thirty (30) or more persons or employees of the local school district, as authorized by Section 33-5207, Idaho Code. ~~(3-10-05)T~~ (8-11-05)T

**03. Denial of Charter Revision.** The denial by the authorized chartering entity of a public charter school of a request to revise a charter, as authorized by Section 33-5209(4), Idaho Code. (3-10-05)T

**04. Revocation.** A decision of an authorized chartering entity to revoke a charter, as authorized by Section 33-5209(4), Idaho Code. (3-10-05)T

**401. APPEAL TO THE DEPARTMENT OF A DECISION RELATING TO THE FORMATION OF A NEW OR CONVERSION PUBLIC CHARTER SCHOOL.**

The denial of a petition to form a new public charter school, or the granting of a petition to form a conversion public charter school over the objection of thirty (30) or more persons or employees of the local school district, may be appealed to the Department, as provided by Section 33-5207(1), Idaho Code. The following procedures shall govern such appeals. (3-10-05)T

**01. Submission of Appeal.** To institute an appeal, the petitioners/appellants shall submit a notice of appeal and request for public hearing in writing to the Department that describes, in detail, all of the grounds for the appeal, and the remedy requested, within thirty (30) days from the date of the decision of the authorized chartering entity that reviewed the petition. A copy of the notice of appeal shall be submitted to the authorized chartering entity, and with the Board. In addition, contemporaneous with the submission of the notice of appeal, the petitioners/appellants shall also submit to the Department two (2) copies of the complete record of all actions taken with respect to the consideration of the public charter school petition. The record must be in chronological order and must be appropriately tabbed and indexed. The record must contain, at a minimum, all of the

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following documents:

~~(3-10-05)~~(8-11-05)T

**a.** The name, address, and telephone number of the person or persons submitting the appeal on behalf of petitioners/appellants, as well as the authorized chartering entity that issued the decision being appealed. (3-10-05)T

**b.** The complete petition that was submitted to the authorized chartering entity, including any amendments thereto or supplements thereof. (3-10-05)T

**c.** Copies of audio or video recordings, if any, and the minutes from all meeting(s) where the petition was considered or discussed. (3-10-05)T

**d.** All correspondence between the petitioners/appellants and the authorized chartering entity relating to the petition from the date the original petition was submitted until the date the authorized chartering entity issued the decision being appealed. (3-10-05)T

**e.** The written decision provided by the authorized chartering entity to the petitioner. A copy of such notice of appeal shall be submitted to the authorized chartering entity whose decision is being appealed, and to the Board. (3-10-05)T

**02. Hearing Officer.** The Department shall hire a hearing officer to review the action of the authorized chartering entity and to conduct a public hearing, pursuant to Section 67-5242, Idaho Code. The Department shall forward to the hearing officer one (1) copy of the record provided by petitioners/appellants and attached to the notice of appeal within ten (10) business days of receipt. ~~(3-10-05)~~(8-11-05)T

**03. Public Hearing.** A public hearing to review the decision of the authorized chartering entity shall be conducted ~~by the hearing officer~~ within thirty (30) days after ~~the date of the submission~~ the hearing officer receives of the notice of appeal and request for a public hearing submitted with to the Department. ~~(3-10-05)~~(8-11-05)T

**04. Notice of Hearing.** All parties in an appeal shall be notified of a public hearing at least ten (10) days in advance, or within such time period as may be mandated by law. The notice shall identify the time, place, and nature of the hearing; a statement of the legal authority under which the hearing is to be held; the particular sections of the statutes and any rules involved; the issues involved; and the right to be represented. The notice shall identify how and when documents for the hearing will be provided to all parties. (3-10-05)T

**05. Prehearing Conference.** The hearing officer may, upon written or other sufficient notice to all interested parties, hold a prehearing conference to formulate or simplify the issues; obtain admissions or stipulations of fact and documents; identify whether there is any additional information that had not been presented to the authorized chartering entity; arrange for exchange of any proposed exhibits or prepared expert testimony; limit the number of witnesses; determine the procedure at the hearing; and to

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determine any other matters which may expedite the orderly conduct and disposition of the proceeding. (3-10-05)T

**06. Hearing Record.** The hearing shall be recorded unless a party requests a stenographic recording by a certified court reporter, in writing, at least seven (7) days prior to the date of the hearing. Any party requesting a stenographic recording by a certified court reporter shall be responsible for the costs of same. Any party may request that a transcript of the recorded hearing be prepared, at the expense of the party requesting such transcript, and prepayment or guarantee of payment may be required. Once a transcript is requested, any party may obtain a copy at the party's own expense. (3-10-05)T

**07. Hearing Officer's Recommendation.** The hearing officer shall issue a recommendation within ten (10) days after the date of the hearing. The recommendation shall include specific findings on all major facts at issue; a reasoned statement in support of the ~~decision~~ recommendation; all other findings and recommendations of the hearing officer; and a recommendation affirming or reversing the decision of the authorized chartering entity. The hearing officer shall mail or deliver a copy of the recommendation to the Department, the petitioners/appellants, and the authorized chartering entity. (3-10-05)T(8-11-05)T

**08. Review of Recommendation by Authorized Chartering Entity.** (3-10-05)T

**a.** The authorized chartering entity shall hold a public hearing to review the recommendation of the hearing officer within thirty (30) days of receipt of the recommendation. (3-10-05)T

**b.** Written notification of the scheduled public hearing shall be sent by the authorized chartering entity to the petitioners/appellants at least ten (10) days prior to the scheduled hearing date. (3-10-05)T

**c.** The authorized chartering entity shall make a final decision to affirm or reverse its initial decision within ten (10) days after the date the public hearing is conducted. (3-10-05)T

**09. Reversal of Initial Decision.** (3-10-05)T

**a.** If the authorized chartering entity reverses its initial decision and denies the conversion of a traditional public school to a public charter school, then that decision is final and there shall be no further appeal. (3-10-05)T

**b.** If the authorized chartering entity reverses its initial decision and approves the new public charter school, then the charter shall be granted and there shall be no further appeal. (3-10-05)T

**10. Affirmation of Initial Decision.** (3-10-05)T

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**a.** If the authorized chartering entity affirms its initial decision to authorize the conversion of a traditional public school to a public charter school, then the charter shall be granted and there shall be no further appeal. (3-10-05)T

**b.** If the authorized chartering entity affirms its initial decision and denies the grant of a new public charter school, then the petitioners/appellants may appeal such final decision further to the Board in accordance with the procedure described in Section 402 of these rules. (3-10-05)T

**402. APPEAL TO THE BOARD RELATING TO THE DENIAL OF A REQUEST TO FORM A NEW PUBLIC CHARTER SCHOOL.**

The following procedures shall govern an appeal to the Board of the final decision of an authorized chartering entity relating to the denial of a petition to form a new public charter school. (3-10-05)T

**01. Submission of Appeal.** The petitioners/appellants shall submit a notice of appeal in writing with the Board that describes, in detail, all of the grounds for the appeal, and the remedy requested, within twenty-one (21) days from the date the authorized chartering entity issues its final decision to deny a petition to form a new public charter school. A copy of the notice of appeal shall be submitted to the authorized chartering entity. In addition, contemporaneous with the submission of the notice of appeal, the petitioners/appellants shall also submit to the Board, two (2) copies of a complete record of all actions taken with respect to the consideration of the public charter school petition. The record must be in chronological order, must be tabbed and indexed, and must contain, at a minimum, the following documents: (3-10-05)T

**a.** The complete record submitted to the Department, as provided in Subsection 401.01.a through 401.01.e. of these rules. (3-10-05)T

**b.** A transcript, prepared by a neutral person whose interests are not affiliated with a party to the appeal, of the recorded public hearing conducted by the hearing officer, as described in Subsection 401.06 of these rules. (3-10-05)T

**c.** A copy of the hearing officer's recommendation. (3-10-05)T

**d.** Copies of audio or video recordings, if any, and the minutes of the public hearing conducted by the authorized chartering entity to consider the recommendation of the hearing officer, as described in Subsection 401.08.a through c. of these rules. (3-10-05)T(8-11-05)T

**e.** Copies of any additional correspondence between the petitioners/appellants and the authorized chartering entity relating to the petition subsequent to the public hearing conducted by the Department. (3-10-05)T

**f.** The final written decision provided by the authorized chartering entity to the

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petitioners/appellants.

(3-10-05)T

**02. Public Hearing.** A public hearing to review the final decision of the authorized chartering entity shall be conducted within a reasonable time from the date that the Board receives the notice of appeal, but not later than sixty (60) calendar days from such date. The public hearing shall be for the purpose of considering all of the materials in the record that were presented at prior proceedings. However, new evidence, testimony, documents, or materials that were not previously considered at prior hearings on the matter may be accepted or considered, in the sole reasonable discretion of the Board, or of the charter appeal committee or public hearing officer, as described in Subsection 402.04 of this rule.

~~(3-10-05)T~~(8-11-05)T

**03. Notice of Hearing.** All parties in an appeal shall be notified of a public hearing at least ten (10) days in advance, or within such time period as may be mandated by law. The notice shall identify the time and place of the hearing; a statement of the legal authority under which the hearing is to be held; the particular sections of the statutes and any rules involved; the issues involved; and the right to be represented. The notice shall identify how and when documents for the hearing will be provided to all parties.

(3-10-05)T

**04. Appointment of Charter Appeal Committee or Public Hearing Officer.** The Board may, in its reasonable discretion, determine to appoint a charter appeal committee, composed solely of Board members, or a combination of Board members and Board staff, or alternatively, to appoint a public hearing officer, for the purpose of conducting the public hearing. If the Board determines not to make such an appointment, then the Board shall conduct the public hearing.

(3-10-05)T

**05. Recommended Findings.** If the public hearing is conducted by a charter appeal committee or appointed public hearing officer, then such committee or appointed public hearing officer shall forward to the Board all materials relating to the hearing as soon as reasonably practicable after the date of the public hearing. If so requested by the Board, the entity conducting the public hearing may prepare recommended findings for the Board to consider. The recommended findings shall include specific findings on all major facts at issue; a reasoned statement in support of the ~~decision~~recommendation; all other findings and recommendations of the charter appeal committee or public hearing officer; and a recommended decision affirming or reversing the decision of the authorized chartering entity, or such other action recommended by the charter appeal committee or public hearing officer, such as remanding the matter back to the authorized chartering entity, or redirecting the petition to another authorized chartering entity. A copy of the recommended findings shall be mailed or delivered to all the parties.

~~(3-10-05)T~~(8-11-05)T

**06. Final Decision and Order by the Board.** The Board shall consider the materials forwarded by the entity conducting the public hearing, including any recommended findings of the charter appeal committee or appointed public hearing officer, as may be applicable, in a meeting open to the public at the next regularly scheduled meeting of the Board that occurs after the public hearing. If the public hearing was not

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conducted by the Board, then the Board may allow representatives for both the petitioner/appellant and the authorized chartering entity an opportunity to deliver oral arguments to the Board advocating their respective positions, limited to thirty (30) minutes for each party. Whether the public hearing is conducted by the Board or by a charter appeal committee, the Board shall issue a final written decision on such appeal within sixty (60) days from the date of the public hearing. The final decision and order of the Board shall be sent to both the petitioners/appellants and the authorized chartering entity, and will not be subject to reconsideration. With respect to such written decision, the Board may take any of the following actions: (3-10-05)T

**a.** Approve the charter, if the Board determines that the authorized chartering entity failed to appropriately consider the charter petition, or if it acted in an arbitrary manner in denying the request. In the event the Board approves the charter, the charter shall operate under the jurisdiction of the Commission, as provided by Section 33-5207(6), Idaho Code. (3-10-05)T

**b.** Remand the petition back to the authorized chartering entity for further consideration with directions or instructions relating to such further review. (3-10-05)T

**c.** Redirect the petition for consideration to another authorized chartering entity. (3-10-05)T

**d.** Deny the appeal submitted by the petitioners/appellants. (3-10-05)T

**403. APPEAL RELATING TO THE DENIAL OF A REQUEST TO REVISE A CHARTER OR A CHARTER REVOCATION DECISION.**

The following procedures shall govern an appeal relating to the denial of a request to revise a charter or a charter revocation decision. (3-10-05)T

**01. Submission of Appeal.** The public charter school shall submit a notice of appeal in writing to the Board that describes, in detail, all of the grounds for the appeal, and the remedy requested, within thirty (30) days from the date of the written decision of the authorized chartering entity to revoke a charter or to deny a charter revision. A copy of the notice of appeal shall be submitted to the authorized chartering entity. In addition, contemporaneous with the submission of the notice of appeal, the appellant charter school shall also submit to the Board eleven (11), three (3)-holed punched, copies of the complete record of all actions taken with respect to the matter being appealed. The record must be in chronological order and must be appropriately tabbed and indexed. The record must contain, at a minimum, all of the following documents: (3-10-05)T

**a.** The name, address, and telephone number of the appellant public charter school and the authorized chartering entity that issued the decision being appealed. (3-10-05)T

**b.** Copies of all correspondence or other documents between the appellant public charter school and the authorized chartering entity relating to the matter being

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appealed. (3-10-05)T

**c.** Copies of audio or video recordings, if any, and the minutes from all meeting(s) where the matter on appeal was considered or discussed. (3-10-05)T

**d.** The written decision provided by the authorized chartering entity to the appellant public charter school. (3-10-05)T

**02. Public Hearing.** A public hearing to review the decision of the authorized chartering entity shall be conducted within thirty (30) days after the date of the filing of the notice of appeal. (3-10-05)T

**03. Notice of Hearing.** All parties in an appeal shall be notified of a public hearing at least ten (10) days in advance, or within such time period as may be mandated by law. The notice shall identify the time and place of the hearing; a statement of the legal authority under which the hearing is to be held; the particular sections of the statutes and any rules involved; the issues involved; and the right to be represented. The notice shall identify how and when documents for the hearing will be provided to all parties. (3-10-05)T

**04. Appointment of Charter Appeal Committee or Public Hearing Officer.** The Board may, in its reasonable discretion, determine to appoint a charter appeal committee, composed solely of Board members, or a combination of Board members and Board staff, or alternatively, to appoint a public hearing officer, for the purpose of conducting the public hearing. If the Board determines not to make such an appointment, then the Board shall conduct the public hearing. (3-10-05)T

**05. Prehearing Conference.** The entity conducting the public hearing may, upon written or other sufficient notice to all interested parties, hold a prehearing conference to formulate or simplify the issues; obtain admissions or stipulations of fact and documents; identify whether there is any additional information that had not been presented to the authorized chartering entity; arrange for exchange of any proposed exhibits or prepared expert testimony; limit the number of witnesses; determine the procedure at the hearing; and to determine any other matters which may expedite the orderly conduct and disposition of the proceeding. (3-10-05)T

**06. Hearing Record.** The hearing shall be recorded unless a party requests a stenographic recording by a certified court reporter, in writing, at least seven (7) days prior to the date of the hearing. Any party requesting a stenographic recording by a certified court reporter shall be responsible for the costs of same. The record shall be transcribed at the expense of the party requesting a transcript, and prepayment or guarantee of payment may be required. Once a transcript is requested, any party may obtain a copy at the party's own expense. (3-10-05)T

**07. Recommended Findings.** If the public hearing is conducted by a charter appeal committee or appointed public hearing officer, then such committee or public

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hearing officer shall forward to the Board all materials relating to the hearing as soon as reasonably practicable after the date of the public hearing. If so requested by the Board, the entity conducting the public hearing may prepare recommended findings for the Board to consider. The recommended findings shall include specific findings on all major facts at issue; a reasoned statement in support of the ~~decision~~ recommendation; all other findings and recommendations of the charter appeal committee or public hearing officer; and a recommended decision affirming, or reversing, ~~or modifying~~ the action or decision of the authorized chartering entity. A copy of the recommended findings shall be mailed or delivered to all the parties. (3-10-05)T(8-11-05)T

**08. Final Decision and Order by the Board.** The Board shall consider the materials forwarded by the entity conducting the public hearing, including any recommended findings of the charter appeal committee or appointed public hearing officer, as may be applicable, in a meeting open to the public at the next regularly scheduled meeting of the Board that occurs after the public hearing. If the public hearing was not conducted by the Board, then the Board may allow representatives for both the appellant public charter school and the authorized chartering entity an opportunity to deliver oral arguments to the Board advocating their respective positions, limited to thirty (30) minutes for each party. Whether the public hearing is conducted by the Board, or by a charter appeal committee or appointed public hearing officer, the Board shall issue a final written decision on such appeal within sixty (60) days from the date of the public hearing. The decision shall be sent to both the appellant public charter school and the authorized chartering entity. With respect to such written decision, the Board may take any of the following actions: (3-10-05)T

**a.** Grant the appeal and reverse the decision of the authorized chartering entity if the Board determines that the authorized chartering entity failed to appropriately consider the revocation of the charter, or the request to revise the charter, or that the authorized chartering authority acted in an arbitrary manner in determining to revoke the charter, or in denying the request to revise the charter. (3-10-05)T

**b.** Remand the matter back to the authorized chartering authority for further consideration with directions or instructions relating to such further review. (3-10-05)T

**c.** Redirect the matter for consideration to another authorized chartering entity. (3-10-05)T

**d.** Deny the appeal filed by the appellants. (3-10-05)T

**404. EX PARTE COMMUNICATIONS.**

Unless required for the disposition of a matter specifically authorized by statute to be done ex parte, no party to the appeal nor any representative of any such party to the appeal, nor any person or entity interested in such appeal, may communicate, directly or indirectly, regarding any substantive issue in the appeal with the Board or the charter appeal committee or any hearing officer appointed to hear or preside over the appeal hearing, except upon notice and opportunity for all parties to participate in the communication.

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(3-10-05)T

**405. -- 499. (RESERVED).**

**500. MISCELLANEOUS.**

**01. Definition of LEA.** As used in Section 500 of these rules, the term “local education agency” or “LEA” shall mean a public authority legally constituted within the state for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in the state, as such term is defined in the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, and as such term is further defined in 34 CFR 300.18. (3-10-05)T

**02. LEA Designations.** Section 33-5203(7), Idaho Code, provides that the Board shall be responsible to designate those public charter schools that will be identified as an LEA; however, only public charter schools chartered by the board of trustees of a school district may be included in that district's LEA. A public charter school may request to be designated as an LEA. Such request shall be in writing and must be submitted to the executive director of the Board. In addition, such request shall state the reasons why the public charter school is requesting LEA status, and ~~must be submitted to the executive director of the Board~~ include, at a minimum, the following: (3-10-05)T(8-11-05)T

a. Verification that the public charter school is a public virtual school under Idaho law (if applicable). (8-11-05)T

b. A description of the federal programs for which the public charter school will seek funding, and a detailed discussion of the projected financial impact (positive or negative) to the public charter school if it is designated an LEA. (8-11-05)T

c. A discussion of how the public charter school will administer the ISAT tests to its students. (8-11-05)T

**03. Criteria.** The executive director of the Board shall have the ~~responsibility of authority to designate~~ these a public charter schools that will be identified as an LEA, in accordance with the following criteria: (8-11-05)T

a. A public charter school that is chartered by the board of trustees of a school district shall be included in that district's LEA, and the executive director of the Board shall not be permitted to designate such a school as an LEA, except that the executive director of the Board may designate a as discussed in Subsection 500.03 of these rules.(8-11-05)T

b. A public virtual school that is chartered by the board of trustees of a school district may be designated as an LEA, if the executive director determines, in his reasonable discretion that the public virtual school has demonstrated a compelling reason for such designation in its written request and any supporting materials. (8-11-05)T

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**c.** A public charter school that is chartered by the Commission must be designated by the executive director as an LEA, but will still be required to submit a written request pursuant to Subsection 500.02 of these rules. (8-11-05)T

**04. Referral to the Board.** ~~If the executive director determines, in his reasonable discretion, that a public charter school has demonstrated a compelling reason to be designated an LEA, but such~~ The executive director may determine to refer any request for LEA designation described in Section 500 of these rules to the Board for consideration, including any request submitted by a public charter school that is not eligible under the criteria contained herein, then the executive director may refer such request to the Board for consideration. (3-10-05)T(8-11-05)T

**05. Review.** A public charter school may appeal to the Board a decision made by the executive director of the Board to deny a request to be designated an LEA. (8-11-05)T

**06. Timeframe for LEA Request.** A request for LEA status must be received no later than February 1 in order for any such designation to be effective for the following school year. (8-11-05)T

**501. -- 999. (RESERVED).**

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**SUBJECT**

Proposed Legislative Amendments for 2006

**APPLICABLE STATUTE, RULE, OR POLICY**

N/A

**BACKGROUND**

In July, Board staff requested from agencies, institutions, and other Board staff possible amendments to legislation. Six suggestions were received. Board staff must submit possible legislative amendments to the Division of Financial by October 11.

**DISCUSSION**

At this time there are six pieces of proposed legislation that staff and agencies are bringing to the Board for their review. They are as follows:

1. Uniform Reporting of Student Information. This legislation will remove any reference to the Idaho Student Information Management system (ISIMS). This legislation will also allow the State Board of Education to adopt rules that will govern the implementation a student information tracking system should funding become available.
2. Rulemaking authority for the State Board of Education for IDVR. Currently, Section 33-2211, Idaho Code only allows the Board (as the Board of Professional-Technical Education, which is designated by statute to provide vocational rehabilitation in this state) to adopt rules for "its own government". With the transfer, from Health and Welfare, of the Extended Employment Program to IDVR, the existing rules terminated. This legislation would allow the State Board of Education to broaden the Board's authority to adopt rule to govern this program and others that IDVR oversees.
3. Restructure of Statutes governing the Idaho School for the Deaf and the Blind. Currently, the Office of Performance Evaluations and a committee appointed by the State Board of Education is examining the Idaho School for the Deaf and the Blind. The Committee appointed by the Board is examining ISDB's responsibility with Outreach Programs, Residential Day Camps, and the local School districts responsibility in the education of hearing or visually impaired students. Based on the recommendations that will come from OPE and the committee, the Board anticipates the need for amendments to the statutes governing ISDB.
4. Professional Technical Apprenticeship Legislation. Currently, there are several pieces of legislation that deal with apprenticeships, but they all differ as to the educational requirements. In the electrical

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apprenticeship legislation, for example, it provides explicitly for the Division under the State Board to be responsible for approving the curriculum. In others, that area is left unspecified. The Division also has a responsibility elsewhere in Idaho code and rule for coordinating all professional-technical education which includes apprenticeship. Issues have developed with our technical colleges and the entities which govern apprenticeship about who should do what. Some clarification would help all the parties involved.

5. Idaho's Course/Program Registration Process. The course/program registration process in Title 33, Chapters 1 and 24 needs to be revised to more clearly define the process for registering private non-profit and for profit postsecondary institutions that are located outside the state of Idaho but are offering academic credit in Idaho. The revisions will enhance the Idaho State Board of Education's ability to more carefully scrutinize institutions that are interested in offering programs in Idaho. Idaho is one of a few states in the nation that does not have rigorous registration process. The registration process protects the integrity of academic credit among institutions and helps to avoid the proliferation of degrees that are granted by paying a fee and not taking classes or what is known as "diploma mill" types of degrees.
  
6. University of Idaho's Self-Funded Health Plan. The University has been working diligently to manage rising health care costs for its employees and retirees. After extensive research and approval from the Board of Regents/State Board of Education in April 2005, the University is going to self-fund its medical and dental plans to manage these costs more effectively. Idaho Code Title 41, Chapter 40, requires all employers with self-funded plans, except those exempted in IC 41-4003, to register with the State Department of Insurance. Registration requires the employer to establish a trust to manage and administer a self-funded health plan in the State of Idaho. The trust must be a separate legal entity, which creates legal concerns for the University of Idaho as a public entity governed by the Idaho Board of Regents/State Board of Education. The authorities vested in the trust (the trust has the power to sue and be sued, to borrow money and to give security therefore, to contract in its own name, and to invest trust funds) create a potential conflict with the Board of Regents'/State Board of Education's policies and contracting authority. In addition, the University of Idaho's insurance coverage under the State of Idaho's liability insurance program will likely not meet the fidelity bond requirements under ID 41-40, and it is questionable whether the trust would be covered under the Idaho Tort Claims Act, which limits the University of Idaho's legal liability. Consequently, the University of Idaho is seeking legislative exemption under IC 41-4003 so that it does not have to register its self-funded health plan with the Department of

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Insurance and comply with the trust and insurance requirements per Idaho Code. Other governmental entities, such as agencies of the federal government and Idaho counties, are already exempt.

**IMPACT**

If the Board does not approve the proposed legislative amendments, staff will not proceed with submittal to the legislature and the laws will remain the same.

If the Board approves the proposed legislative amendments, staff will proceed with submittal of the attached idea forms to the Division of Financial Management and the Governor's Office.

**STAFF COMMENTS AND RECOMMENDATIONS**

State Board staff recommends approval of the proposed legislative amendments as submitted.

**BOARD ACTION**

A motion to approve the proposed legislative amendments concerning Uniform Reporting of Student Information, the Rulemaking for the Board for the Division of Vocational Rehabilitation, Idaho School for the Deaf and the Blind, Professional Technical Apprenticeships, the Registration Process for Postsecondary Institutions, and the University of Idaho's health plan exemption.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_

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**REFERENCE: IDEA FORM, UNIFORM REPORTING OF STUDENT INFORMATION**

Executive Agency Legislative System

**IDEA SHEET**

| IDEA   | Proposed SOP                        | Reports                               |
|--|-------------------------------------|---------------------------------------|
| EALS #   | Status:                             | DFM Analyst: Randy Tilley             |
| RS:  | C: Agency: State Board of Education |                                       |
| Title: Uniform Reporting of Student Information  |                                     |                                       |
| Contact 1: Karen Echeverria  | Phone: 332-1567                     | E-Mail: klecheverria@osbe.state.id.us |
| Contact 2: Luci Willits  | Phone: 332-1591                     | E-Mail: lwillits@osbe.state.id.us     |
| ► Has this or a similar idea been submitted in the past three years?    ___ YES <u> X </u> No  |                                     |                                       |
| ► If "yes", Please state the Year and Bill number:   |                                     |                                       |
| ► Brief description of legislative idea and how it will "solve the problem":<br>This legislation will remove any reference to the Idaho Student Information Management system (ISIMS). This legislation will also allow the State Board of Education to adopt rules that will govern the implementation a student information tracking system should funding become available. |                                     |                                       |
| ► Fiscal impact of the legislative idea: There will be no fiscal impact to the general fund.   |                                     |                                       |
|  |                                     |                                       |



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**REFERENCE: IDEA FORM, IDAHO SCHOOL FOR THE DEAF AND THE BLIND**

**Executive Agency Legislative System**

**IDEA SHEET**

| IDEA  | Proposed SOP                        | Reports                                 |
|---|-------------------------------------|---|
| EALS #  | Status:                             | DFM Analyst: Randy Tilley               |
| RS:   | C: Agency: State Board of Education |   |
| Title: Restructure of Statutes governing the Idaho School for the Deaf and the Blind.   |                                     |   |
| Contact 1: Karen Echeverria   | Phone: 332-1567                     | E-Mail: karen.echeverria@osbe.idaho.gov |
| Contact 1: Harv Lyter Interim Superintendent  | Phone: 208-934-4457                 | E-Mail: harv.lyter@isdb.idaho.gov       |
| <p>▶ Has this or a similar idea been submitted in the past three years?    <input type="checkbox"/> YES<br/> <input checked="" type="checkbox"/> No</p>   |                                     |   |
| ▶ If "yes", Please state the Year and Bill number.  |                                     |   |
| <p>▶ Brief description of legislative idea and how it will "solve the problem":</p> <p>Currently, the Office of Performance Evaluations and a committee appointed by the State Board of Education is examining the Idaho School for the Deaf and the Blind. The Committee appointed by the Board is examining ISDB's responsibility with Outreach Programs, Residential Day Camps, and the local School districts responsibility in the education of hearing or visually impaired students. Based on the recommendations that will come from OPE and the committee, the Board anticipates the need for amendments to the statutes governing ISDB.</p> |                                     |   |
| <p>▶ Fiscal impact of the legislative idea:</p> <p>Should major changes in the mission and scope of operations be called for in the revised Statutes, agency budget appropriations may require significant restructuring to align with new guidance. Significant increases in Outreach staff and/or regional campuses may be required. There could also be a relocation of the Campus Program to a more urban area, where both student services and the operational requirements of the agency can be better served.</p>  |                                     |   |

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**REFERENCE: IDEA FORM, PROFESSIONAL-TECHNICAL  
APPRENTICESHIP LEGISLATION**

Executive Agency Legislative System

**IDEA SHEET**

| IDEA  | Proposed SOP    | Reports                      |
|---|-----------------|------------------------------|
| EALS #  | Status:         | DFM Analyst:                 |
| RS:   | C: Agency:      |                              |
| Title: Apprenticeship Legislation   |                 |                              |
| Contact 1: Mike Rush  | Phone: 334-3216 | E-Mail: mrush@pte.idaho.gov  |
| Contact 2: Burton Waite   | Phone: 334-3216 | E-Mail: bwaite@pte.idaho.gov |
| ► Has this or a similar idea been submitted in the past three years? ___ YES<br><input checked="" type="checkbox"/> No  |                 |                              |
| ► If "yes", Please state the Year and Bill number:  |                 |                              |
| ► Brief description of legislative idea and how it will "solve the problem":<br>Currently, there are several pieces of legislation that deal with apprenticeships, but they all differ as to the educational requirements. In the electrical apprenticeship legislation, for example, it provides explicitly for the Division under the State Board to be responsible for approving the curriculum. In others, that area is left unspecified. The Division also has a responsibility elsewhere in Idaho code and rule for coordinating all professional-technical education which includes apprenticeship. Issues have developed with our technical colleges and the entities which govern apprenticeship about who should do what. Some clarification would help all the parties involved. |                 |                              |
| ► Fiscal impact of the legislative idea:<br>None  |                 |                              |
|   |                 |                              |

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**REFERENCE: IDEA FORM, IDAHO'S COURSE/PROGRAM REGISTRATION PROCESS**

**Executive Agency Legislative System**

**IDEA SHEET**

| IDEA  | Proposed SOP                        | Reports                                 |
|---|-------------------------------------|---|
| EALS #  | Status:                             | DFM Analyst: Randy Tilley               |
| RS:   | C: Agency: State Board of Education |   |
| Title: Idaho's Course/Program Registration Process  |                                     |   |
| Contact 1: Karen Echeverria   | Phone: 332-1567                     | E-Mail: karen.echeverria@osbe.idaho.gov |
| Contact 1: Marilyn Davis  | Phone: 332-1591                     | E-Mail: marilyn.davis@osbe.idaho.gov    |
| ▶ Has this or a similar idea been submitted in the past three years? <input type="checkbox"/> YES<br><input checked="" type="checkbox"/> No   |                                     |   |
| ▶ If "yes", Please state the Year and Bill number.  |                                     |   |
| ▶ Brief description of legislative idea and how it will "solve the problem":<br><br>The course/program registration process in Title 33, Chapters 1 and 24 needs to be revised to more clearly define the process for registering private non-profit and for profit postsecondary institutions that are located outside the state of Idaho but are offering academic credit in Idaho. The revisions will enhance the Idaho State Board of Education's ability to more carefully scrutinize institutions that are interested in offering programs in Idaho. Idaho is one of a few states in the nation that does not have rigorous registration process. The registration process protects the integrity of academic credit among institutions and helps to avoid the proliferation of degrees that are granted by paying a fee and not taking classes or what is known as "diploma mill" types of degrees |                                     |   |
| ▶ Fiscal impact of the legislative idea:<br><br>Initially staff at the Idaho State Board of Education/ Department of Education will be able to process requests. In future years, 1 additional professional position and a part-time clerical position may need to be added if the number of institutions seeking approval increases.   |                                     |   |

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**REFERENCE: IDEA FORM, UNIVERSITY OF IDAHO HEALTH PLAN  
Executive Agency Legislative System**

**IDEA SHEET**

| IDEA  | Proposed SOP                     | Reports  |
|---|----------------------------------|--|
| EALS #  | Status:                          | DFM Analyst:                                   |
| RS:   | C:                               | Agency: <b>University of Idaho</b>             |
| Title: <b>University of Idaho Health Plan</b>   |                                  |  |
| Contact 1: <b>Karen Echeverria</b>  | Phone: <b>(208)<br/>332-1567</b> | E-Mail: <b>Karen.Echeverria@osbe.idaho.gov</b> |
| Contact 2: <b>Marty Peterson</b>  | Phone: <b>(208)<br/>364-4033</b> | E-Mail: <b>martyp@uidaho.edu</b>               |
| ▶ Has this or a similar idea been submitted in the past three years? <u>      </u> YES <u>  X  </u> No  |                                  |  |
| ▶ If "Yes", Please State the Year and Bill number:  |                                  |  |
| ▶ Brief description of legislative idea and how it will "solve the problem":<br><p><b>The University of Idaho is requesting an amendment to Idaho Code, Title 41, Chapter 40, Section 41-4003, so that it will be exempt from registering its self-funded health plan with the State Department of Insurance due to potential legal conflicts as a governmental entity.</b></p> <p><b>The University has been working diligently to manage rising health care costs for its employees and retirees. After extensive research and approval from the Board of Regents/State Board of Education in April 2005, the University is going to self-fund its medical and dental plans to manage these costs more effectively. Idaho Code Title 41, Chapter 40, requires all employers with self-funded plans, except those exempted in IC 41-4003, to register with the State Department of Insurance. Registration requires the employer to establish a trust to manage and administer a self-funded health plan in the State of Idaho. The trust must be a separate legal entity, which creates legal concerns for the University of Idaho as a public entity governed by the Idaho Board of Regents/State Board of Education. The authorities vested in the trust (the trust has the power to sue and be sued, to borrow money and to give security therefore, to contract in its own name, and to invest trust funds) create a potential conflict with the Board of Regents/State Board of Education's policies and contracting authority. In addition, the University of Idaho's insurance coverage under the State of Idaho's liability insurance program will likely not meet the fidelity bond requirements under ID 41-40, and it is questionable whether the trust would be covered under the Idaho Tort Claims Act, which limits the University of Idaho's legal liability. Consequently, the University of Idaho is seeking legislative exemption under IC 41-4003 so that it does not have to register its self-funded health plan with the Department of Insurance and comply with the trust and insurance requirements per Idaho Code. Other governmental entities, such as agencies of the federal government and Idaho counties, are already exempt.</b></p> |                                  |  |
| ▶ Fiscal impact of the legislative idea:<br><p><b>With a self-funded plan, the University of Idaho will be able to better manage the double-digit increases in annual health plan costs, and save thousands of dollars in profit and margin that it would have to pay an insurance carrier in a fully insured plan. These savings will not be realized if the University of Idaho cannot self-fund its health plan because of the potential legal conflicts noted above. In addition, if IC 41-4003 is amended to exempt the University of Idaho from registering with the State Department of Insurance, the University will save thousands of dollars that would have to be spent to set up a separate trust entity per Idaho Code, and to fund directors and officers insurance and possibly fidelity bonds for UI employees, and other legal fees associated with administering the trust.</b></p>  |                                  |  |

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**SUBJECT**

Second Reading of Amendment to Board Policy I.J Use of Institutional Facilities and Services with Regard to the Private Sector

**REFERENCES**

|                         |  |
|-------------------------|--|
| March 2005 SBOE Meeting | Discussion regarding pre-game activities   |
| April 2005 SBOE Meeting | Request by Board Member Terrell to have President's Kustra and White available to discuss this issue |
| June 2005 SBOE Meeting  | Approval of First Reading  |

**APPLICABLE STATUTE, RULE, OR POLICY**

N/A

**BACKGROUND**

At the March 2005 Board meeting, the issue of Board Policy I.J was discussed. The President of the University of Idaho and the President of Boise State University both expressed a concern regarding the portion of that policy that refers to individuals of lawful age being allowed into the defined areas where alcohol will be served. The Board approved the first reading of the amendment at the June 2005 Board meeting.

**DISCUSSION**

President White and President Kustra feel that the language in section I.J.2.(4) and (5) requires the Universities to set up areas that would separate families who attend the events. The description used by President White was that the policy requires the Universities to set up areas similar to "bars" rather than similar to "restaurants". In other words, since no one under 21 years of age is allowed, it is an event that families could not attend without separating their families.

The operative language in Section I.J.2.(5) is "Only those individuals lawfully attending the Permitted Event who are of lawful age to consume alcoholic beverages may be allowed into the defined area." This requires that no person under 21 may be in the defined area of a permitted event.

The new proposed language would permit individuals under 21 years of age into the permitted event if they are accompanied by a person who is of lawful age and if there are age appropriate activities in the area. All other requirements of the permitted event process would remain in effect to ensure only the lawful possession and consumption of alcohol.

This item was discussed at the March 2005 Board meeting. The policy amendment has been revised to remove the requirement that there be age-appropriate activities in the defined area, based on feedback from the Board. An additional issue was raised concerning whether the policy language would permit

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a student of lawful age to be accompanied by a younger sibling. As presently worded, the policy amendment would allow this scenario to occur.

At the meeting held in June 2005, President White expressed some concerns about allowing band members and award recipients into the defined area. After some discussion, it was agreed that institutions could submit comments to the proposal prior to the 2<sup>nd</sup> reading if they chose. The University of Idaho (UI) has submitted some proposed text that is different than that being proposed by staff. The text from the University of Idaho can be found on pages 3 and 4. Staff notes that the proposal submitted by UI does not contain a requirement for supervision of minors admitted to the defined area.

**IMPACT**

The impact of this policy change would allow persons under 21 to attend permitted events. All requirements of the current policy and the permit process will remain unchanged.

**STAFF COMMENTS AND RECOMMENDATIONS**

Staff has reviewed the proposed amendment and recommends approval as submitted for the first reading. Because the UI proposal does not contain a requirement for supervision of minors, staff would not recommend approval of the proposed amendments submitted by the University of Idaho.

**BOARD ACTION**

A motion to approve the Second Reading for the amendment of Board Policy I.J.2.(4) and (5) - Use of Institutional Facilities and Services with Regard to the Private Sector.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_

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**REFERENCE: AMENDMENT TO BOARD POLICY I.J.2.(4) AND (5)**

- (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 who have received a written invitation to a Permitted Event, and who are of lawful age to consume alcoholic beverages, 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, provided that such individuals may be accompanied by youth for whom they are responsible, but only if such youth are, at all times, under the supervision and control of such individuals. 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.

**PROPOSAL SUBMITTED BY THE UNIVERSITY**

- (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, provided that 1) individuals entering the defined area may be accompanied minors for

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whom they are responsible and whom are under the supervision and control o f the individual at all times: and (2) event sponsors may invite and allow minors into the defined area if they are central to the function of the Permitted Event, such as, but not limited to, band members or award recipients. 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.

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**SUBJECT**

Idaho Distance Education Academy I-DEA Request for Local Education Agency (LEA) Status

**APPLICABLE STATUTE, RULE, OR POLICY**

Sections 33-5202A(6) and 33-5203(7) Idaho Code  
34 CFR 300.18

IDAPA 08.02.04, Rules Governing Public Charter Schools, Section 500

**BACKGROUND**

I-DEA was authorized as a charter school by the White Pine School District and began operations in the fall of 2004. They recently completed their first year of school. Daryl Bertelsen, Administrator for the school, indicated that a large population of the students in the school is students that were home-schooled in the previous years.

I-DEA has filed a request for LEA status with the State Board of Education.

Section 33-5203(7), Idaho Code gives the State Board of Education the responsibility to designate schools that will be identified as LEAs. Section 500 of the Rules Governing Charter Schools grant the Executive Director the authority to grant LEA status to public virtual schools and to charter schools authorized by the Public Charter School Commission.

Section 33-5202A(6) defines a public virtual school as "... a public charter school that may serve students in more than one (1) school district and that provides instruction to pupils primarily through virtual distance learning or online technologies..." In his request, Mr. Bertelsen indicates that he believes I-DEA meets the requirements set out in statute to be considered a virtual school. Students who attend I-DEA are actually taught by their parents or mentor at home. There is no set curriculum that is used. Parents purchase textbooks of their choice and are reimbursed by I-DEA. While there is some discussion online between teachers, parents, and students, there is no instruction given online. Therefore, it is not clear to staff if the student instruction is done "primarily through virtual distance learning".

I-DEA is not a school authorized by the Public Charter School Commission and staff is not convinced that I-DEA meets the criteria set out in statute to be considered a virtual school. Therefore, the Executive Director does not have the authority to grant LEA status to I-DEA and it is being forwarded to the Board for consideration.

**DISCUSSION**

I-DEA indicates the main reason for their request is to allow for the clear delineation of legal and financial responsibility for all educational programming offered. Staff has determined that when the State Department of Education (SDE) determines federal funding, they use the demographics of the White Pine

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School District to establish funding. If LEA status is granted, the SDE will determine federal funding based on the demographics of the entire state. That will increase funding to I-DEA by approximately \$300,000.

I-DEA also states that LEA status will help to clarify the lines of authority existing between the I-DEA and the White Pine School District and assure that I-DEA is able to make all necessary decisions, including those related to finances. I-DEA indicates that the populations, educational model, and student needs for the two schools are extremely diverse and require allocation of resources in completely different formats.

The request for LEA status is different from others received by the Board or Executive Director. In the past, the Board or Executive Director have granted LEA status only to schools authorized by, or would be authorized by, the Public Charter School Commission or public virtual schools. This request is from a charter school that is authorized by a local school district. The Board will need to make a policy decision as to whether or not they want to grant LEA status to a school that is authorized by a local school district.

**IMPACT**

If the Board grants LEA status to I-DEA, they will begin operation as an entity separate from the White Pine School District. Because they are authorized by the White Pine School District, the District will still be responsible for the general oversight of the charter school. I-DEA will begin receiving funds from the State Department of Education as an LEA. I-DEA estimates their federal funds will increase by approximately \$300,000.

If the Board does not grant LEA status to I-DEA, they will remain a school under the White Pine School District and their federal funding will remain essentially the same.

**STAFF COMMENTS AND RECOMMENDATIONS**

Staff is not clear if the Board wishes to make a policy decision to grant LEA status to schools authorized by a local school district. Therefore, staff offers no comments or recommendations.

**BOARD ACTION**

A motion granting LEA status to I-DEA.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_

A motion denying LEA status to I-DEA.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_

**Section 33-5205A(6), Idaho Code**

(6) "Public virtual school" means a public charter school that may serve students in more than one (1) school district and through which the primary method for the delivery of instruction to all of its pupils is through virtual distance learning or online technologies.

**Section 33-5203(7), Idaho Code**

(7) The state board of education shall be responsible to designate those public charter schools that will be identified as a local education agency (LEA) as such term is defined in 34 CFR 300.18; however, only public charter schools chartered by the board of trustees of a school district may be included in that district's LEA.

**34 CFR 300.18**

TITLE 34--EDUCATION

REHABILITATIVE SERVICES, DEPARTMENT OF EDUCATION

PART 300 ASSISTANCE TO STATES FOR THE EDUCATION OF CHILDREN WITH  
DISABILITIES--Table of Contents

Subpart A General

Sec. 300.18 Local educational agency.

(a) As used in this part, the term local educational agency means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

(b) The term includes--

(1) An educational service agency, as defined in Sec. 300.10;

(2) Any other public institution or agency having administrative control and direction of a public elementary or secondary school, including a public charter school that is established as an LEA under State law; and

(3) An elementary or secondary school funded by the Bureau of Indian Affairs, and not subject to the jurisdiction of any SEA other than the Bureau of Indian Affairs, but only to the extent that the inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under this Act with the

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smallest student population.

**IDAPA 08.02.04, Rules Governing Charter Schools**

**500. MISCELLANEOUS.**

**01. Definition of LEA.** As used in Section 500 of these rules, the term "local education agency" or "LEA" shall mean a public authority legally constituted within the state for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in the state, as such term is defined in the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, and as such term is further defined in 34 CFR 300.18. (3-10-05)T

**02. LEA Designations.** Section 33-5203(7), Idaho Code, provides that the Board shall be responsible to designate those public charter schools that will be identified as an LEA; however, only public charter schools chartered by the board of trustees of a school district may be included in that district's LEA. A public charter school may request to be designated as an LEA. Such request shall be in writing and must be submitted to the executive director of the Board. In addition, such request shall state the reasons why the public charter school is requesting LEA status, and must be submitted to the executive director of the Board include, at a minimum, the following:

~~(3-10-05)T~~(8-11-05)T

a. Verification that the public charter school is a public virtual school under Idaho law (if applicable). (8-11-05)T

b. A description of the federal programs for which the public charter school will seek funding, ad a detailed discussion of the projected financial impact (positive and/or negative) to the pubic charter school if it is designated an LEA. (8-11-05)T

c. A discussion of how the public charter school will administer the ISAT tests to its students. (8-11-05)T

**03. Criteria.** The executive director of the Board shall have the ~~responsibility of authority to designate~~ these a public charter schools that will be identified as an LEA, in accordance with the following criteria: (8-11-05)T

a. A public charter school that is chartered by the board of trustees of a school district shall be included in that district's LEA, and the executive director of the Board shall not be permitted to designate such a school as an LEA, except as discussed in Subsection 500.03 of these rules. (8-11-05)T

b. that the executive director of the Board may designate a A public virtual school that is chartered by the board of trustees of a school district may be designated as an LEA, if the executive director determines in his reasonable discretion that the

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public virtual school has demonstrated a compelling reason for such designation in its written request and any supporting materials. (8-11-05)T

c. A public charter school that is chartered by the Commission must be designated by the executive director as an LEA, but will still be required to submit a written request pursuant to Subsection 500.02 of these rules. (8-11-05)T

04. Referral to the Board. ~~If the executive director determines, in his reasonable discretion, that a public charter school has demonstrated a compelling reason to be designated an LEA, but such~~ The executive director may determine to refer any request for LEA designation described in Section 500 of these rules to the Board for consideration, including any request submitted by a public charter school that is not eligible under the criteria contained herein, then the executive director may refer such request to the Board for consideration. (3-10-05)T(8-11-05)T

05. Review. A public charter school may appeal to the Board a decision made by the executive director of the Board to deny a request to be designated by and LEA. (8-11-05)T

06. Timeframe for LEA Request. A request for LEA status must be received no later than February 1 in order for any such designation to be effective for the following school year. (8-11-05)T

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