

**PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
APRIL 14, 2016**

TAB	DESCRIPTION	ACTION
1	UNIVERSITY OF IDAHO – ANNUAL REPORT	Information Item
2	PRESIDENTS’ COUNCIL REPORT	Information Item
3	NEZ PERCE STATE TRIBAL EDUCATION PARTNERSHIP	Information Item
4	2016 LEGISLATIVE UPDATE	Information Item
5	ACCOUNTABILITY OVERSIGHT COMMITTEE RECOMMENDATIONS	Motion to Approve
6	BOARD POLICY I.P. IDAHO INDIAN EDUCATION COMMITTEE – FIRST READING	Motion to Approve
7	BOARD POLICY I.T. TITLE IX POLICY – FIRST READING	Motion to Approve
8	BOARD POLICY IV.B. STATE DEPARTMENT OF EDUCATION, STANDARDS SETTING – FIRST READING	Motion to Approve
9	ISU – ADMIN UNIT NAME CHANGE	Motion to Approve

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SUBJECT

University of Idaho (UI) Annual Progress Report

APPLICABLE STATUTE, RULE, OR POLICY

Idaho State Board of Education Governing Policies & Procedures, Section I.M.3.

BACKGROUND/DISCUSSION

This agenda item fulfills the Board's requirement for the University of Idaho to provide a progress report on the institution's strategic plan, details of implementation, status of goals and objectives and information on other points of interest in accordance with a schedule and format established by the Board's Executive Director.

President Chuck Staben will provide a 15-minute overview of UI's progress and achievements for the past year that set the stage for assessment and determination of our future strategic direction in the coming year.

IMPACT

The University of Idaho's strategic plan drives the University's integrated planning, programming, budgeting, and assessment cycle and is the basis for the institution's annual budget requests and performance measure reports to the State Board of Education, the Division of Financial Management and the Legislative Services Office.

ATTACHMENT

Attachment 1 – Annual Report

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BOARD ACTION

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

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Progress Report

April, 2016

Strategic Plan Implementation (The institutions as well as progress toward moving the Board's strategic plan forward)

- Details of implementation
 - Over the last seven months, UI developed a nine-year overarching plan for the institution through 2025 that will drive near-term strategic plans (including the five-year plan submitted to the Board for review at the April meeting), program prioritization and budgeting activities. Plan development has broad participation including a 40-person committee, internal and alumni surveys and polls, and an open comment period where we actively solicited feedback used to inform the final plan.
 - The next step will be formation of an Institutional Planning and Effectiveness (IPE) committee charged with developing a structure to collect, implement and monitor unit and program cascading plans that will create linkages at all levels of the organization. Follow on to this work will include linking the budget cycle and program prioritization/ process improvement efforts to the overarching strategic plan.
 - Concurrently, the institution is moving towards robust centralized data collection and analysis that will support data-driven decision making and strong monitoring and reporting capabilities.
 - Moving forward, progress (and need for mid-course corrections) will be monitored through an internal annual report cycle shared with the Board and the general public.
- Status of goals and objectives
 - While institutional activities continue towards attainment of all stated goals and objectives, focus the last year has centered around activities at the intersection of the Go-On Initiative, Complete College Idaho and University of Idaho Goal 1 focused on enabling student success.
 - Direct Admit Event 1: November 2015 – Value of Going to College (information sessions delivered collaboratively with other institutions as follow up to the Direct Admit letter)
 - Direct Admit Event 2: January 2016 - Paying for College and the FAFSA (education event Broadcast to 18 Extension locations statewide for parents and students)

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- Built capacity in academic advising and student support to improve student success and increase retention of students to degree attainment
- Launched the Office of Undergraduate Research, providing targeted effort towards facilitating and increasing student research experiences
- This last year, considerable attention has been paid towards improving community and culture (Goal 4). Specifically, as four new vice presidents have come on board, groundwork has been done to identify and improve inefficiencies and to participate in planning for the future in a very open and transparent way. Open conversations have made the university community more informed and aware of issues at hand and provided multiple avenues for participation in finding solutions and has made large strides towards rebuilding broad participation and position us as a flatter, more nimble organization. Representative examples include:
 - Strategic Plan Development Committee – 40 member committee with representation from every college and division plus advisory board members and student leadership.
 - Recruitment Process Streamlining – Human Resources led discussion with process users to redesign the recruiting process/system to be more time efficient while ensuring compliant search processes.
 - Pay Taskforce – A committee of faculty and staff reviewed and made recommendations for changes to the payment system for academic year faculty
 - Research Job Family - Faculty and staff were consulted in the development of a research and scientific staff job family to replace the current suite of titles/grades to better represent diversity of work in those fields which improved employee satisfaction with that aspect of the current classification system.
 - Budget Process – engaging a standing faculty committee in a more meaningful way to implement a newly organized process aligned with strategic goals and University priorities.
 - Structural realignment to facilitate effective administration
 - Reorganizing the former Division of Finance and Administration into two separate divisions (Finance and Infrastructure) (last Spring)
 - Currently evaluating Diversity and Human Rights, and Human Rights, Access and Inclusion (HRAI) offices. The first office promotes diversity, while HRAI is primarily involved in Title IX, EEO, and ADA compliance. These duties do not seem naturally related, so we are assessing how to best meet both diversity and compliance needs.
 - Developing an updated model for Strategic Enrollment Management focused on student success from inquiry through career readiness and graduation
 - Institutional Research and Assessment will provide centralized data and reports geared towards decision support and reporting.
 - Special appropriations
(we have no special appropriations to report on)

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Enrollment Numbers (As reported in the performance measure report (FY15))

- Total Enrollment 13,696 (Unduplicated Annual Headcount) (headcount); FTE of 10,176
 - Undergraduate 8,807 from FY15 PMR
 - Graduate 2,171 from FY15 PMR
 - Professional 395 from FY15 PMR

Retention Rates (As reported in the performance measure report (FY15))

- Retention Rate:
 - First-Time Full-time: 80% Updated FA16 from FY15 PMR reported 77% (peer 84% Median)
 - New Transfer: 77% Updates FA16 from FY15 PMR reported 81% (Peer 76% Median)
 - Part-Time: 53% from FY15 PMR (No peer available)

Graduation Rates (As reported in the performance measure report (FY15))

- Six Year Graduation Rate for full-time new freshmen, 58%
- Degrees Awarded:
 - Bachelors 1,868
 - Masters, Specialists, and Doctorates 619
 - Professional (M.S.A.T, J.D., EdD, D.A.T) 123
 - Certificates 103

Research and Economic Development

- Research expenditures reported to NSF for 2015 were \$97,493,000
- Classified in The Carnegie Classification of Institutions of Higher Education (2015) as Doctoral: Higher Research
- Contributes approximately \$1.1 billion to Idaho's economy through the combined activities of the University and its alumni which is nearly 2 percent of the state's economy (2015 EMSI Study).
- The team of Professor J. Alves-Foss and postdoctoral research Fellow Jia Song are one of seven finalists in the Defense Advanced Research Project Agency's Cybersecurity Challenge
- Cybersecurity training in Coeur d'Alene
- Sponsored Research Agreements with Schweitzer Engineering Labs, Micron, and Idaho Power Company
- In FY15, 8 licenses, 2 option agreements, and 3 end-user-in-licenses awarded; 5 U.S. utility patents issued
- Hazards SEES: Advancing Resilience to Compounding Disasters: An Integrated Natural-Human Systems Assessment of Wildfire Vulnerability, NSF \$2.7M over four years

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- An Elsevier preliminary assessment of research competencies identified UI as one of the leading US universities in forest and wildfires as well as freshwater fisheries.
- Received three IGEM HERC incubation grants: Plant Extracts as Natural Pesticides and Potato Spray Inhibitors, All Natural low GI Potato and N-E-W Terra: an enhanced Efficiency Fertilizer Manufactured from Biochar
- Released 11 new plant varieties: three wheat, one canola, one mustard and six potato

Highlight Any College Standouts

- National Merit Scholars – Most in the Northwest at 78 total with Idaho resident students numbering 36
- Library: Agreement with OpenStax to provide access to inexpensive textbooks for UI students (collaboration with ASUI)
- Natural Resources: Fire science collaboration resulted in review article: *The Science of Firescapes Achieving Fire-Resilient Communities*, Bioscience 66, 130-146 (2016) authors are from U of Idaho, UC Berkley, U of Montana, South Dakota State University, University of Tasmania, US Forest Service, Utah State University, Colorado State University, Woods Hole Research Center, National Park Service and the Desert Research Institute; Named #1 value for Natural Resources by USA Today
- Letters, Arts & Social Sciences: McClure Center provided impactful, unbiased, policy reports: Latinos in Idaho, transportation infrastructure, Life After High School
- Agricultural & Life Sciences: Limagrain cereal seeds, Potato Variety Management Institute partnerships; Collaborations with Simplot, AgriBeef, Monsanto (major agricultural farms); Strong relationships with all major agricultural commissions
- Science: National Science Foundation BEACON grant
- Law: Completed occupancy of the Idaho Law and Justice Learning Center; rose from 127 to 111 in USNews ranking; named Top 40 Best Value in National Jurist
- Engineering: EXPO brings >700 K-12 students to campus;
- Education: Center on Disabilities & Human Development has impacted 39,024 K-12 teachers/others through professional development; providing training for educators to transition students with print disabilities to accessible curricular materials, which includes accessible e-textbooks and distribution of 441 devices/equipment to schools (FY2015 CDHD Annual Report)
- Business: Entrepreneurship competition with over 200 students in multiple disciplines across campus. Several business in Moscow have been started with the funds from these competitions, such as Mototrax; Executive Utility Course; Pacific NorthWest Economic Region
- Art & Architecture: Integrated Design Lab (IDL) in Boise

Collaborations with Other Institutions or Industry

- Ongoing statewide collaboration on the Idaho Regional Optical Network (IRON) for high speed statewide broadband connectivity enabling research, education and outreach

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- Clearwater Economic Development Association/Lewis Clark State College/Idaho Department of Labor/Valley Vision/North Central Idaho manufacturers/North Central Idaho high schools/UI are working together on several workforce development initiatives.
- Center for Advanced Energy Studies
- Urban Design Center work with industry, Boise community
- Engineering is key collaborator in Tech Help

Capital Campaign

Our Campaign ending January of 2015 exceeded our goal by 16% for a total of \$262M with \$38.2M raised in FY15, a record year.

- Academic Enhancements \$3,788,000
\$3,788,000 was distributed from endowments to promote academic excellence by supporting programs, strategic initiatives, and faculty research
- Scholarship Endowment \$146,000,000
Of the \$238 million dollar University of Idaho endowment portfolio (fair market value June 30, 2015), scholarships comprised \$146 million or about 61%.

With a spending rate of 4.4%, \$5,865,000 was distributed to the University for student scholarships specifically for the 2015-16 academic year

Community Partnerships

- Cities of Moscow and Pullman/Latah and Whitman counties/ Moscow and Pullman Chambers of Commerce/Southeastern Washington Economic Development Association/Washington State University/Latah and Whitman County businesses/UI work together as the Palouse Knowledge Corridor to help companies in the Palouse region succeed by matching them with resources through the Spring and Fall Business Showcases and the Be the Entrepreneur Bootcamp
- Participation in Community-University Strategic Partnership (CUSP) for the City of Moscow branding initiative
- Participation in Partnership for Economic Prosperity (PEP) between City, County and UI

New Buildings (including major renovations)

- ILJLC – completed summer 2015
- IRIC – under construction, on schedule, online Jan 2017
- College of Education – under construction, on schedule online July 2016
- 2015 - Over \$70M+ in capital construction projects in varying stages
- 2016 - Wallace Remodel, Aquaculture Research Center in Moscow
- Ongoing classroom renovations

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PRESIDENTS' COUNCIL

SUBJECT

Presidents' Council Report

BACKGROUND/DISCUSSION

President Tony Fernández, Lewis-Clark State College President and current chair of the Presidents' Council, will give a report on the Presidents' Council meetings held on February 2, 2016 and March 1, 2016. During the February 2, meeting the group discussed a Computer Science Co-op Pilot Plan, Idaho SkillStack, the possibility of changing Board meeting locations, and a legislative update. At the March 1, meeting the topics consisted of presidential evaluations, medical education, tuition and fees, communications with Board staff, the RFP for a learning management system, and Senate Bill 1349.

BOARD ACTION

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SUBJECT

Idaho Indian Education Impact

REFERENCE

June 2015

Board approved the Idaho Indian education Strategic Plan

BACKGROUND/DISCUSSION

In June 2015, the Board approved the Idaho Indian Education Strategic Plan which consists of two main goals: to promote academic excellence for American Indian students and increase culturally relevant pedagogy in teacher education programs. Since its approval, the strategic plan has significantly advanced the work of the Indian Education Committee in developing recommendations to incorporate culturally relevant pedagogy in Idaho Initial Certification Standards for professional educators. The work has also expanded collaboration between Tribal Education Departments, postsecondary institutions, and state agencies.

Significant work on culturally relevant pedagogy is a critical component of Idaho's two (2) State Tribal Education Partnership (STEP) grants. STEP is a federal grant designed to promote collaboration between tribal educational agencies (TEA), state educational agencies (SEA), and local educational agencies (LEA). The two grant recipients include a renewal of the Nez Perce Tribe STEP grant and a new award to the Coeur d'Alene Tribe. Both grants address cultural standards and culturally responsive teaching to increase access to opportunities for academic success to Idaho's American Indian students. The recent passing of Every Student Succeeds Act (ESSA) permanently authorizes STEP.

Both STEP grants incorporated the Idaho Indian Education Strategic plan in their goals and objectives to strengthen collaboration between SEA, TEA, and partner LEAs. Areas identified are academic achievement, opportunity gaps, school improvement, and teacher quality to meet the unique educational and cultural needs of American Indian students to improve their educational attainment.

Ms. Joyce McFarland is the Nez Perce Education Manager and will provide a brief overview to the Board of the STEP program.

IMPACT

The STEP programs supports, aligns, and collaborates with the Indian Education Strategic Plan on the K-20 education. This united work will increase the knowledge and awareness of the unique educational and cultural needs of American Indian students to improve their educational attainment.

ATTACHMENTS

Attachment 1 – STEP Presentation

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STAFF COMMENTS AND RECOMMENDATIONS

At the March 4, 2016 meeting, the Indian Education Committee received an update on STEP programs from the Nez Perce Tribe and Coeur d'Alene Tribe. The committee recommended that Ms. McFarland provide an overview of STEP to the Board on the progressive partnership with LEAs that have resulted in positive actions.

BOARD ACTION

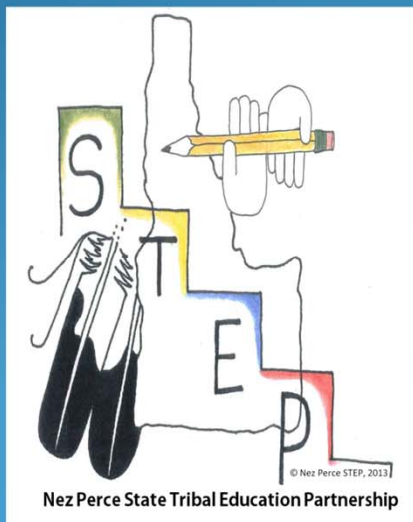
This item is for informational purposes only. Any action will be at the Board's discretion.

PLACE BASED



State Tribal Education Partnership Nez Perce STEP Project

*Improving the Academic Achievement of
Tribal Students by Meeting their
Unique Educational & Cultural Needs*



EVERY STUDENT SUCCEEDS ACT

Key provisions on behalf of AI/AN students in the ESSA include:

- State Tribal Education Partnership (STEP) Authorization:** Grants are permanently authorized to promote tribal self-determination, improve Indian academic achievement, and promote coordination and collaboration between tribal education agencies and state and local education agencies.
- Consultation:** States must engage in meaningful consultation with tribes in the development of state plans for Title I grants. LEAs must consult with tribes in the design and development of programs under the Act, and they must consult with tribes prior to making any decision affecting the opportunities of Indian children in programs, services, or activities funded by ESSA.

NIEA, 2015

Idaho Indian Education Committee Strategic Plan

GOAL 1: AMERICAN INDIAN ACADEMIC EXCELLENCE

Ensure Idaho's American Indian students are afforded educational opportunities on an equitable basis; provide resources that promote and support an increase in the educational attainment among American Indian students.

- Objective A: Increase access of education opportunity among Idaho's American Indian students.
- Objective B: Increase the level of educational attainment among Idaho's American Indian students. → IRI & SAT scores**
- Objective C: Increase the quality of instruction for Idaho's American Indian students. → Teacher Prep Standards & Teacher Certification Credits**

GOAL 2: CULTURALLY RELEVANT PEDAGOGY

Ensure Idaho K-20 educational institutions will provide all educators with indigenous scholarship to recognize the distinct, unique knowledge and heritage of Idaho's American Indians.

- Objective A: Increase integration of cultural relevancy into professional practice. → Professional Development Credits**
- Objective B: Increase the knowledge of federal policies and Idaho's Indian Tribes.



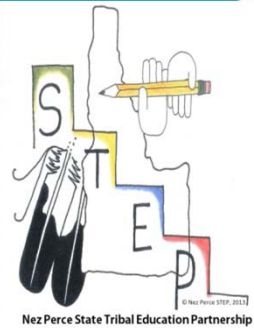
Nez Perce STEP

2015-2019



The goal of the Nez Perce STEP project :

By the end of the 2018/19 school year, reduce the achievement gap by 50% in English Language Arts (ELA) and Math between American Indian/Alaska Native (AI/AN) students, in targeted LEA's on the Nez Perce reservation, and all students in Idaho (2014/15 baseline results).



Nez Perce STEP 2015-2019

- **Objective 1: Strengthen collaboration** between the SEA and TEA in the administration of three (3) state formula grant programs, implemented by the partner LEA's, that target improved academic achievement for disadvantaged students, school improvement, and teacher quality;
- **Objective 2: Build the capacity** of the TEA and SEA to support partner LEAs to meet the unique educational and cultural needs of AI/AN students to improve their academic achievement; and
- **Objective 3: Develop, monitor, and evaluate effective, culturally-responsive standards and practices** implemented by partner LEAs to improve academic achievement of their AI/AN students, as related to three (3) selected state formula grant programs.

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SUBJECT

2016 Legislative Update

BACKGROUND/DISCUSSION

This item is to provide the Board with an update on Board approved legislation and other education related bills considered during the 2016 legislative session. Twelve (12) bills were introduced and proceeded through the legislative process.

Board Submitted Bills:

H391: Removes the requirement that the Tax Commission report to the Department of Education certain findings or calculations regarding property valuations. Status: Signed by the Governor.

H392: Repeals the Youth Education Account. Status: Signed by the Governor.

H452: Amends existing law regarding the transfer of accrued sick leave by employees of a state educational agency; and revises provisions regarding accrued unused sick leave. Status: Signed by the Governor.

H526: Literacy intervention. Amends existing law expanding reading intervention for identified students in kindergarten through grade 3. Status: Signed by the Governor.

H560: Amends existing law to provide additional requirements for annual school district continuous improvement plans, and defines the term "statewide student readiness and improvement metrics." Status: Signed by the Governor.

H571: Includes Pupil Service Staff on the career ladder and establishes criteria for Pupil Service Staff to move on the career ladder; amends the process for auditing educator evaluations. Status: Signed by the Governor.

S1208: Clarifies the disability determination for Public Safety Officers regarding the Armed Forces and Public Safety Officer Scholarship. Allows the Board the option to move responsibility for the investment of the Opportunity Scholarship Fund to from the State Treasurer to the Endowment Fund Investment Board. Status: Signed by the Governor.

S1210: Amends existing law to replace references to professional-technical education with career technical education. Status: Signed by the Governor.

S1232: Updates Chapter 23, Title 33, Idaho Code, pursuant to changes in federal regulations impacting the Rehabilitation Act of 1973, which governs the Idaho Division of Vocation Rehabilitation (IDVR). Status: Signed by the Governor.

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S1280: Amends existing law to revise residency requirements for students of an Idaho public institution of higher education (excluding community colleges). Status: Signed by the Governor.

S1320: Requires community colleges to follow the same requirements as school districts when acquiring and disposing of real property. Pursuant Section 33-601, Idaho Code, school districts are authorized to purchase real property and requires they have a property appraisal conducted within one (1) year prior to any purchase. Status: Signed by the Governor.

S1376: Provides additional transparency regarding the management of charter schools, as well as allowing for a streamlined process for charter holders to replicate high achieving charter schools. Status: Signed by the Governor.

Board Supported Bills:

H357: Adds the STEM Education Fund to the educational entities for which a taxpayer would qualify for the existing income tax credit for charitable contributions to education-related funds. Status: Signed by the Governor.

H379: Provides for the creation of K-12 computer science content standards and collaboration with the STEM Action Center, the Board, Industry, and public universities and colleges to develop quality computer science professional development and certification or degree programs. Status: Signed by the Governor.

H451: Requires parental involvement in the process of developing a reading improvement plan for deficient readers. Status: Signed by the Governor.

H459: Establishes the Community College Start-Up Account in the Higher Education Stabilization Fund. Status: Signed by the Governor.

HCR33: Stating findings of the Legislature and authorizing the Legislative Council to appoint a committee to conduct a study of the public school funding formula and to make recommendations. Status: Delivered to the Secretary of State

S1279: Creates the STEM Education Fund to support the initiatives and work of the Idaho STEM Action Center. Status: Signed by the Governor.

SCR134: Stating findings of the Legislature and supporting the State Board of Education's goal that 60% of Idaho citizens ages 25-34 earn a postsecondary degree or certificate by 2020 to meet the state's workforce needs. Status: Delivered to the Secretary of State.

General Fund Appropriations

The FY 2017 General Fund appropriations to all major education spending categories increased compared to FY 2016 levels. Specific details regarding the

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colleges and universities, and Division of Career Technical Education under the FY 2017 appropriations under the Business Affairs and Human Resources portion of the agenda.

K-12	\$1.58 billion (+7.4%)
Community Colleges	\$36.9 million (+8.7%)
Four-Year Institutions	\$279.5 million (+8.0%)
Career Technical Education	\$62.1 million (+10.4%)

Additional Education Legislation Highlights

Innovation Schools (H570) – This is a new program that intends to maximize autonomy and flexibility among local schools. Up to 10 schools per year for five years can choose to participate. With the exception of certain specified state and federal laws, Innovation Schools may be exempt from most state law and administrative rules, as well as local district policies, including terms and conditions of employment.

Career Technical Education (CTE) Secondary Instructors (H627 and H630) – Secondary school CTE programs are experiencing a shortage of qualified instructors. To address this, the Legislature included recruitment and retention of high-need CTE instructors as eligible criteria for a leadership premium. Secondary CTE instructors with an occupational certificate will also generate an additional \$3,000 in salary-based apportionment to the school district through the career ladder.

Advanced Opportunities (H458) – Consolidates and streamlines the Advanced Opportunity programs funded by the state into a single program. The new program makes available to each student \$4,125 for use towards overload courses, dual credit course fees, and credit bearing or CTE exams for students in grades 7 through 12. For those students who graduate from high school early prior to using all of the available funds may be eligible for using a portion of the remaining funds toward their postsecondary education.

The attached summary provides the final status of each Board bill, as well as other education-related legislation.

IMPACT

Board action through rulemaking will be necessary dependent upon passage of several pieces of legislation.

ATTACHMENTS

Attachment 1 – Idaho Legislature - 2016 Legislative Session Education
Legislation Page 5

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STAFF COMMENTS AND RECOMMENDATIONS

Board staff will be prepared to walk the Board through specific legislation to answer questions regarding the impact that a given piece of legislation may have on the state educational system.

BOARD ACTION

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Idaho Legislature - 2016 Legislative Session
Education Legislation

Board **submitted** legislation

Board **endorsed** legislation

<u>Bill No</u>	Description	Last Action	<u>Note</u>
H0357	Stem Action Center Income Tax Credit	03/17/2016 House - Reported Signed by Governor on March 17, 2016	Adds the STEM Education Fund to the educational entities for which a taxpayer would qualify for the existing income tax credit for charitable contributions to education-related funds.
H0358	Tax Commission, Requirement Removed	02/18/2016 House - Reported Signed by Governor on February 18, 2016	Eliminates the requirement that the Tax Commission provide valuation information to the Board and SDE that is no longer needed by those agencies.
H0364	Supplemental Appropriation Labor Dept.	02/10/2016 House - Reported Signed by Governor on February 10, 2016	Supplemental appropriation to the Dept. of Labor that includes \$1,553,100 for the State Longitudinal Data System.
H0379	Computer Science Initiative	03/23/2016 House - Reported Signed by Governor on March 23, 2016	Provides for computer science instruction in public schools.
H0391	Adjusted Market Value Report	03/17/2016 House - Reported Signed by Governor on March 17, 2016	Removes the requirement that the Tax Commission report to the Department of Education certain findings or calculations regarding property valuations.
H0392	Youth Education Account Repealed	03/17/2016 House - Reported Signed by Governor on March 17, 2016	Repeals the Youth Education Account.
H0398	Revised Uniform Athlete Agents Act	03/24/2016 House - Reported Signed by Governor on March 24, 2016	Governs relations among student athletes, athlete agents, and educational institutions. It further protects the interest of student athletes and academic institutions by regulating the activities of athlete agents.
H0428	College Savings Accounts, Unclaimed	03/17/2016 House - Reported Signed by Governor on March 17, 2016	Allows the College Savings Program to retain unclaimed accounts.
H0451	Reading Intervention	03/23/2016 House - Reported Signed by Governor on March 23, 2016	Requires parental involvement in the process of developing a reading improvement plan for deficient readers.
H0452	Transfer Of Employee Accrued Sick Leave	03/24/2016 House - Reported Signed by Governor on March 24, 2016	Amends existing law regarding the transfer of accrued sick leave by employees of a state educational agency; and revises provisions regarding accrued unused sick leave.

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<u>Bill No</u>	Description	Last Action	<u>Note</u>
H0458	Advanced Opportunities	03/23/2016 House - Reported Signed by Governor on March 23, 2016	Consolidates and streamlines the Advanced Opportunities into a contiguous program. Allows students to access state support for overload courses, dual credit courses and college credit-bearing or professional-technical examinations at any point in grades 7 through 12. Additionally, students who graduate early can still receive a scholarship to attend an Idaho public postsecondary institution, as is the current practice.
H0459	Community College Start-Up Account	03/22/2016 House - Reported Signed by Governor on March 22, 2016	Establishes the Community College Start-Up Account in the Higher Education Stabilization Fund.
H0476	Statewide Average Class Size	03/22/2016 House - Reported Signed by Governor on March 22, 2016	Currently, data across the State is collected to determine an average class size for each district. The average class size is then used to determine if a school district receives their full use-it or lose-it exemption. If their class size exceeds the statewide average, the district begins to lose their exemption at 1% per year. Because class sizes vary dramatically depending on the student population of the school district, this averaging raises questions of equity of comparison of like and unlike size school districts. This legislation would allow for comparisons of school districts based on their student enrollment. This legislation would use the student enrollment breakdowns already found in Section 33-1002, Idaho Code that are currently used for funding.
H0477	Dual Credit Scholarship	03/28/2016 House – Delivered to Governor at 4:33 p.m. on March 28, 2016	Provides college scholarships to students who earn college credits while in high school. A student who earns 10 to 19 college credits will qualify for a \$1000 state scholarship/year, good at any state college or university, for up to two years if a matching scholarship is received. A student who earns 20 or more college credits will qualify for a \$2,000 state scholarship/year for up to two years if a matching scholarship is received. A student who earns an Associate Degree while still in high school will qualify for a \$4,000 state scholarship/year for up to two years if a matching scholarship is received.
H0497	State Entity Lobbyist Reports	03/28/2016 House - Delivered to Governor at 4:33 p.m. on March 28, 2016	Requires state government agencies and educational institutions to report gifts given to legislators and executive officials in the same manner lobbyists are required to report.
H0512	Community College Trustee Zones	03/24/2016 House - Reported Signed by Governor on March 24, 2016	Amends and adds to existing law to provide for Community College Trustee Zones.

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<u>Bill No</u>	Description	Last Action	<u>Note</u>
H0514	School Safety And Security Act	03/24/2016 House - Reported Signed by Governor on March 24, 2016	Adds to existing law to provide the Idaho School Safety and Security Act to provide the Office of School Safety and Security, the Idaho School Safety and Security Advisory Board, and to provide powers and duties of the board.
H0515	School District Administrator Written Perform Evaluation	03/24/2016 House - Reported Signed by Governor on March 24, 2016	Amends existing law to provide for formal written performance evaluations and when a school district shall be excused and to provide for written evaluations of principals and assistant superintendents.
H0521	Alcoholic Beverages, Minor Immunity For Medical Emergency	03/28/2016 House - Delivered to Governor at 4:33 p.m. on March 28, 2016	Provides a limited use immunity from a misdemeanor Minor in Consumption or Possession of alcohol for a minor that needs or seeks emergency medical help on behalf of themselves or another.
H0526	Literacy Intervention	03/23/2016 House - Reported Signed by Governor on March 23, 2016	Defines students who score basic and below basic as being below grade level, and specify intervention requirements for both levels by expanding interventions from the current requirement of a minimum of 40 hours of intervention for students who are below grade level to a minimum of 60 hours for those who are below basic, and a minimum of 30 hours for those who are identified as basic. Funding will be distributed based on the number of students in a district who are identified as basic or below basic on the statewide reading assessment.
H0527	Community Colleges – Out-Of-District Students	03/31/2016 House - Reported Signed by Governor on March 31, 2016	Amends existing law to revise provisions regarding tuition of out-of-district students, county taxes and other financial support. Creates definite deadlines for when students must submit certificates of residency forms, when counties must approve those residency forms, when community colleges must invoice the counties, and when the counties must pay those invoices. Requires counties to pay only for students who have not dropped out of community college courses before the drop deadline. Clarifies terms and definitions about which students are in-district and out-of-district.
H0537	Supplemental Contracts	03/31/2016 House - Reported Signed by Governor on March 31, 2016	Allows school districts to issue separate contracts for extra service days.
H0538	Omnibus Procurement Act	03/31/2016 House - Reported Signed by Governor on March 31, 2016	Omnibus state purchasing legislation. Among other provisions, state institutions of higher education will be afforded more flexibility when choosing whether to buy property under an open contract.
H0557	Youth Athletes Concussion Monitoring	03/31/2016 House - Reported Signed by Governor on March 31, 2016	Provides that certain sports officials shall review concussion and head injury guidelines and requirements biennially. Requires parental written authorization for participation in athletic activities and to provide for monitoring of a student suspected of suffering a concussion prior to the student resuming athletic activities.

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<u>Bill No</u>	Description	Last Action	<u>Note</u>
H0560	Continuous Improvement Plans	03/28/2016 House - Reported Signed by Governor on March 28, 2016	Incorporates the Accountability and Autonomy Task Force subcommittee recommendations into the school district continuous improvement plan process. This includes the addition of definitions for terms to insure there is a common understanding of student readiness and student improvement. This includes a Career and College Readiness Score, a Career and College Readiness Improvement Score, a High School Readiness Score, a High School Readiness Improvement Score, 7th-Grade Readiness Score, and 7th-Grade Readiness Improvement Score. These scores will be applicable based on three grade bands; high school, K-8, and K-6. Improvement scores will be based on year-over-year improvement in the level of readiness produced by the school, and would be shown as a percentage of change in the applicable readiness score.
H0570	Local Innovation Schools	03/31/2016 House - Reported Signed by Governor on	Establishes the Local Innovation School Act and to provide eligibility requirements and eligibility exemptions and school agreements.
H0571	Career Ladder – Pupil Services	03/28/2016 House - Reported Signed by Governor on March 28, 2016	Amends existing law to move Pupil Service Staff onto the Career Ladder and make technical corrections to the existing requirements. These amendments include the establishment of student outcome- based criteria, in addition to the existing student achievement criteria that are applicable to the work that Pupil Service Staff perform in supporting students. The addition of these criteria will allow Pupil Service Staff to move on the Career Ladder based on quantifiable student outcomes, the same as Instructional Staff. Additional language has been added to allow for the calculation of the salary based apportionment for Pupil Service Staff and Administrative Staff, when the district does not employ these individuals, but contracts for services. Amends the administrator evaluation review process to engage the Idaho teacher preparation programs to assist in assuring the fidelity of the evaluations with the statewide framework.
H0603	Student Mobility Funding	03/28/2016 House: Delivered to Governor at 4:33 p.m. on March 28, 2016	Allows school districts and public charter schools to receive salary-based apportionment based on adjusted mid-term support units, if full-term support units are at least 3% greater than mid-term support units. The adjustment is equal to 75% of the difference between full term support units and mid-term support units.

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<u>Bill No</u>	Description	Last Action	<u>Note</u>
H0617	Public Schools Appropriation	03/28/2016 House - Reported Signed by Governor on March 28, 2016	Appropriates \$86,798,500 for the Public Schools Educational Support Program/Division of Administrators for fiscal year 2017; amends existing law to increase the salary-based apportionment for administrators; and limits the amount distributed for school district and charter school continuous improvement planning and training. This budget includes nondiscretionary adjustments for an estimated enrollment growth of 167 support units and an increase for the statewide education and experience index for salary- based apportionment. There is also funding for a 3% base salary increase. All funds are ongoing from the General Fund and results in a 4.2% increase over the previous year.
H0618	Public Schools Appropriation	03/28/2016 House - Reported Signed by Governor on March 28, 2016	Appropriates \$855,733,000 for the Public Schools Educational Support Program/Division of Teachers for fiscal year 2017. This budget includes nondiscretionary adjustments of \$42,238,200. Of this amount \$39,561,000 is for the second year of instructors who are on the career ladder compensation system. There is also \$1,955,500 to move pupil service staff onto the career ladder, \$582,500 for an increase in leadership awards, and \$139,200 for increases in math and science requirements. Provides \$5,000,000 for academic and college or career advisors and student mentors to be implemented according to Sections 33-1002(s) and 33-1212A, Idaho Code. Line item 4 provides \$2,375,000 for professional development. With the \$10,625,000 already in the base, the addition of this line item will result in \$13,000,000 distributed to school districts and charter schools for teacher and pupil service staff professional development. This appropriation results in a General Fund increase of 6.3% above the previous year and a total fund increase of 6.2%.

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<u>Bill No</u>	Description	Last Action	<u>Note</u>
H0619	Public Schools Appropriation	03/31/2016 House - Reported Signed by Governor on March 31, 2016	Appropriates \$613,471,500 for the Public Schools Educational Support Program/Division of Operations for fiscal year 2017; amends existing law to increase the salary-based apportionment for classified staff; provides an estimate for discretionary funds per support unit; provides for expenditures for information technology staff; provides for classroom technology; directs the use of moneys for instructional management systems. This budget includes increases for nondiscretionary adjustments that include an estimated enrollment growth of 167 support units, an increase for the Idaho Digital Learning Academy, and an endowment increase. There is also a base salary increase of 3% for the classified staff in this division. Provides \$27,309,300 to increase discretionary funds from \$23,868 per support unit to \$25,696 per support unit, which is a 7.7% increase. Provides \$5,000,000 ongoing from the General Fund to be distributed to school districts and charter schools for classroom technology. Adds \$389,000 ongoing from the General Fund to be distributed to school districts and charter schools to purchase and operate instructional management systems of their choice. This amount, added to the existing \$2,611,000 in the base, brings the amount to be distributed for instructional management systems up to \$3,000,000. This appropriation is an increase of 7.3%
H0620	Public Schools Appropriation	03/31/2016 House - Reported Signed by Governor on March 31, 2016	Appropriates \$286,915,800 for the Public Schools Educational Support Program/Division of Children's Programs for fiscal year 2017; provides guidance on funds for the Idaho Digital Learning Academy; directs the use of funds for the Safe and Drug-Free Schools program; directs the use of funds for literacy programs and remedial coursework; directs the use of funds for limited English proficiency programs; requiring advanced opportunities reporting.
H0621	Public Schools Appropriation	03/28/2016 House - Reported Signed by Governor on March 28, 2016	Appropriates \$49,410,500 for the Public Schools Educational Support Program/Division of Facilities for fiscal year 2017; provides moneys for the Bond Levy Equalization Fund; and specifies the amount of revenue to be distributed to the General Fund.
H0622	Public Schools Appropriation	03/28/2016 House - Reported Signed by Governor on March 28, 2016	Appropriates \$10,312,300 for the Public Schools Educational Support Program/Division of Educational Services for the Deaf and the Blind for fiscal year 2017.

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<u>Bill No</u>	Description	Last Action	<u>Note</u>
H0623	Public Schools Appropriation	03/31/2016 House - Reported Signed by Governor on March 31, 2016	Appropriates \$15,262,500 for the Public Schools Educational Support Program/Division of Central Services for fiscal year 2017; directs the use for literacy programs, intervention services, math initiative programs and limited English proficiency programs; directs the use for student assessments; directs the use for performance evaluations; directs the use for wireless technology infrastructure; directs the use for professional development; provides legislative intent related to the use for digital content and credit recovery; provides guidance on year-end reconciliation; provides legislative intent for content and curriculum related to technology; provides direction for the development of an online portal; and defines terms.
H0625	Public Schools Appropriation	03/28/2016 House: Delivered to Governor at 4:33 p.m. on March 28, 2016	Appropriates \$71,849,200 to the Division of Career Technical Education for fiscal year 2017.
H0627	Leadership Premiums	03/28/2016 House: Delivered to Governor at 4:33 p.m. on March 28, 2016	Adds criteria for awarding premiums to instructional and pupil service staff. Increases the minimum award per staff member will be \$900. Adds a requirement that reports will be more detailed, so a more thorough evaluation of the program can be done.
H0629	College And Career Funding Formula	03/28/2016 House: Delivered to Governor at 4:33 p.m. on March 28, 2016	Clarifies the distribution of funding for college and career advising to school districts and public charter schools. The legislation specifies that funding will be distributed in full, or pro rata, based on secondary student enrollment in grades eight through twelve.
H0630	Career Ladder – Career Tech Instructional Staff	03/28/2016 House: Delivered to Governor at 4:33 p.m. on March 28, 2016	Provides a salary apportionment allocation of \$3,000 for school district and charter school instructional staff who hold an occupational specialist certificate. This provision will assist school districts and charter schools in recruiting and retaining instructors for career technical education programs.
H0637	College And University Appropriation	03/28/2016 House: Delivered to Governor at 4:33 p.m. on March 28, 2016	Appropriates \$556,135,800 to the State Board of Education and the Board of Regents of the University of Idaho for college and universities and the Office of the State Board of Education for fiscal year 2017; provides certain re-appropriation authority; provides legislative intent for system-wide needs; provides legislative intent for the Complete College Idaho initiative; and provides legislative intent for a cybersecurity lab in conjunction with the Idaho National Lab.
H0638	Community College Appropriation	03/28/2016 House: Delivered to Governor at 4:33 p.m. on March 28, 2016	Appropriates \$37,519,000 to the State Board of Education for community colleges for fiscal year 2017; exempts appropriation object and program transfer limitations; provides legislative intent relating to system-wide expenditures; and requires an update on the Complete College Idaho initiative.

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<u>Bill No</u>	Description	Last Action	<u>Note</u>
H0645	State Board Appropriation – Special Program, Trailer	03/28/2016 House: Delivered to Governor at 4:33 p.m. on March 28, 2016	Trailer appropriation to H477aa, aaS, which would create a new postsecondary scholarship program that rewards students who have met certain criteria for earning postsecondary credits prior to graduation from high school. The fiscal note for H477aa, aaS requires up to \$1,000,000 dedicated funding for FY 2017. This appropriation provides that amount to the State Board of Education, Special Programs, Scholarship and Grants Program, that is managed by the Office of the State Board of Education, to provide the necessary scholarship funding to qualifying students.
H0647	Public Schools Appropriation Trailers	03/28/2016 House: Delivered to Governor at 4:33 p.m. on March 28, 2016	Appropriates additional funding for the Public Schools Support Program/Division of Children's Programs; appropriates additional funding for the Public Schools Support Program/Division of Operations; reduces the appropriation to the Public School Support Program/Division of Central Services; and appropriates additional funding to the Office of the State Board of Education.
HCR031	Music In Schools Month	03/16/2016 House – Delivered to Secretary of State at 10:39 a.m. on February 26, 2016	Stating findings of the Legislature, recognizing the importance of music education in Idaho schools and recognizing Music in Our Schools Month.
HCR033	Public School Funding Formula Interim Committee	03/16/2016 House – Delivered to Secretary of State at 1:37 p.m. on March 16, 2016	Stating findings of the Legislature and authorizing the Legislative Council to appoint a committee to conduct a study of the public school funding formula and to make recommendations.
HCR044	Education, Rule Docket Rejection	03/15/2016 House - Delivered to Secretary of State at 10:52 a.m. on March 15, 2016	Rules of the State Board of and State Department of Education, Rules Governing Thoroughness, reject Docket Number 08-0203-1509, the entire rulemaking docket, to be, and declared null, void and of no force and effect.
HCR045	Education, Rule Docket Rejection	03/15/2016 House - Delivered to Secretary of State at 10:52 a.m. on March 15, 2016	Rules of the State Board of Education, Rules Governing the Opportunity Scholarship Program, reject Docket 08.01.13, Section 010., Subsection 01. and Section 101., Subsection 02.a, only, adopted as pending rules under Docket Number 08-0113-1501, be, and declared null, void and of no force and effect.
S1208	Armed Forces And Public Safety Officer Scholarship	03/09/2016 Senate - Signed by Governor on 03/09/16	Clarifies the disability determination for the Armed Forces and Public Safety Officer Scholarship. Allows the Board the option to move responsibility for the investment of the Opportunity Scholarship Fund to from the State Treasurer to the Endowment Fund Investment Board.
S1210	Career Technical Education Name Change	02/25/2016 Senate - Signed by Governor on 02/25/16	Amends existing law to replace references to professional-technical education with career technical education.

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<u>Bill No</u>	Description	Last Action	<u>Note</u>
S1232	Vocational Rehab, Federal Acts	03/16/2016 Senate - Signed by Governor on 03/16/16	Updates Chapter 23, Title 33, Idaho Code, pursuant to changes in federal regulations impacting the Rehabilitation Act of 1973, which governs the Idaho Division of Vocation Rehabilitation (IDVR).
S1248	Pub Charter Schools Written Contracts	03/16/2016 Senate - Signed by Governor on 03/16/16	Removes the mandate that charter school teachers must use form contracts approved by the Superintendent of Public Instruction, so that those who are interested could adapt their contracts to better fit the unique needs of their students, teachers and schools.
S1249	STEM Action Center Board	03/15/2016 Senate - Signed by Governor on 03/15/16	Adds to existing law establish provisions regarding the STEM Action Center Board's meetings, honorarium and expenses, and organization.
S1257	School District Board Of Trustees Candidates	03/31/2016 Senate - Signed by Governor on 03/31/16	Requires write-in candidates in school board trustee elections to submit five (5) qualified elector signatures from within the trustee zone.
S1267	Mastery-Based Education Cohort	03/16/2016 Senate - Signed by Governor on 03/16/16	Limits the number of mastery-based education incubators to twenty in the initial cohort. Provides that all funds appropriated by the legislature, for mastery-based education, may be expended on behalf of LEAs or distributed to LEAs at the discretion of the State Department of Education.
S1272	School District Bond Credit Enhancement	03/23/2016 Senate - Signed by Governor on 03/23/16	Increases the capacity of the School Bond Credit Enhancement Program to guaranty payments on general obligation school bonds, reducing interest costs.
S1279	Stem Education Fund	03/23/2016 Senate - Signed by Governor on 03/23/16	Creates the STEM Education Fund to support the initiatives and work of the Idaho STEM Action Center.
S1280	Student Residency Requirements	03/22/2016 Senate - Signed by Governor on 03/22/16	Amends existing law to revise residency requirements for students of an Idaho public institution of higher education.
S1290	College And Career Advising Reporting	03/16/2016 Senate - Signed by Governor on 03/16/16	Provides clarification that Idaho Code, §33-1212A, is specific to College and Career Advising and not the broader more traditional counseling services that are covered in Idaho Code, §33-1212. Additional amendments require school districts to establish a plan as to how they will address college and career advising for their students and provides for a minimum reporting framework. Annual reporting on college and career advising methods and district established goals will be included in their continuous improvement plan progress reports.
S1293	Parental Rights In Education	03/23/2016 Senate - Signed by Governor on 03/23/16	Affirms that a student's parent or guardian holds primary responsibility for the education of the student, and the state is in a secondary and supportive role. It also defines the reasonable accommodation offered to parents and guardians, outlines how school districts and public charter schools shall facilitate parental involvement in the education of their children, and provides that parents may withdraw their children from an activity or class. The act requires an annual notice of parental rights be distributed to parents and guardians.

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<u>Bill No</u>	Description	Last Action	<u>Note</u>
S1320	Community College Property Appraisals	03/22/2016 Senate - Signed by Governor on 03/22/16	Amend existing law to require community colleges to follow the same requirements as school districts when acquiring and disposing of real property.
S1330	School District Student Medicine Policy	03/24/2016 Senate - Signed by Governor on 03/24/16	Amends existing law to provide that the board of trustees of each school district shall adopt a certain policy and to allow certain students to possess and use certain medications and supplies.
S1332	Industry Partner Fund	03/24/2016 Senate - Reported delivered to Governor at 10:45 a.m. on 3/24/16	Adds to existing law to establish the Industry Partner Fund and related provisions and to grant rulemaking authority.
S1333	Broadband Infrastructure Grants	03/24/2016 Senate - Signed by Governor on 03/24/16	Adds to existing law to provide the Broadband Infrastructure Improvement Grant Fund and related provisions, to require rulemaking and to define a term.
S1334	Education Opportunity Resource	03/24/2016 Senate - Signed by Governor on 03/24/16	Repeals existing law relating to the Idaho Education Network and establishes new law to provide the Education Opportunity Resource Act.
S1336	Civics Test, Individual Education Plan	03/22/2016 Senate - Signed by Governor on 03/22/16	Amends existing law to provide an exception to a certain testing requirement.
S1342	Public Schools, Use Of The Bible	03/24/2016 Senate - Reported delivered to Governor at 10:45 a.m. on 3/24/16	Repeals and adds to existing law to provide when the Bible is permitted to be used in public schools, with exceptions.
S1370	Public Television Appropriation	03/22/2016 Senate - Signed by Governor on 03/22/16	Appropriates \$9,294,600 to Idaho Public Television for fiscal year 2017; and limits the number of authorized full- time equivalent positions to 64.48.
S1376	Public Charter School Replication And Management	03/31/2016 Senate - Signed by Governor on 03/31/16	Provides additional transparency regarding the management of charter schools, as well as allowing for a streamlined process for charter holders to replicate high achieving charter schools. Specific amendments would specify that the non-profit corporation authorized to organize and manage one or more charter schools may not operate enterprises other than public charter schools, but can contract with other organizations to provide administrative and program services; clarify that a single non-profit may hold multiple charters; outline the process for replication of effective charter schools; and add the defined terms "charter holder" and "educational services provider."
S1395	Vocational Rehabilitation Division Appropriation	03/28/2016 Senate - Signed by Governor on 03/28/16	Appropriates \$27,791,900 to the Division of Vocational Rehabilitation for fiscal year 2017; and limits the number of authorized full-time equivalent positions to 152.5

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<u>Bill No</u>	Description	Last Action	<u>Note</u>
S1398	State Board Of Education Appropriation Special Programs	03/28/2016 Senate - Signed by Governor on 03/28/16	Appropriates \$17,154,500 to Special Programs under the State Board of Education for fiscal year 2017; limits the number of authorized full-time equivalent positions to 42.13; provides for the transfer of any unexpended and unencumbered General Fund moneys to the Opportunity Scholarship Program Account at the end of fiscal year 2016; and provides legislative intent on the level of services by the Geological Survey Program in eastern Idaho.
S1399	State Board Of Education Appropriation Health Education Programs	03/28/2016 Senate - Signed by Governor on 03/28/16	Appropriates \$13,831,200 to the State Board of Education and the Board of Regents of the University of Idaho for Health Education Programs for fiscal year 2017; limits the number of authorized full-time equivalent positions to 24.8; provides a lump sum appropriation for dedicated funds; and re-appropriates unexpended and unencumbered dedicated fund balances for the Dental Education Programs.
S1412	State Board Of Education Appropriation Office	03/28/2016 Senate - Reported delivered to Governor at 2:25 p.m. on 3/28/16	Appropriates \$7,081,000 to the Office of the State Board of Education for fiscal year 2017; limits the number of authorized full-time equivalent positions to 28.75; and authorizes the re-appropriation of certain funds.
S1424	Superintendent Of Public Instruction Appropriation	03/28/2016 Senate - Reported delivered to Governor at 2:25 p.m. on 3/28/16	Reduces the fiscal year 2016 appropriation by \$5,500,000; appropriates \$38,190,800 to the Superintendent of Public Instruction for fiscal year 2017; limits the number of authorized full-time equivalent positions to 142; and provides legislative intent related to school district broadband services.
S1425	STEM Action Center Appropriation	03/28/2016 Senate - Reported delivered to Governor at 2:25 p.m. on 3/28/16	Appropriates \$2,421,700 to the STEM Action Center for fiscal year 2017; and limits the number of authorized full-time equivalent positions to 2.
S1426	State Board Of Education Appropriation Agriculture Research	03/28/2016 Senate - Reported delivered to Governor at 2:25 p.m. on 3/28/16	Appropriates \$30,540,700 to the Agricultural Research and Cooperative Extension Service for fiscal year 2017; and exempts object transfer limitations.
S1429	Appropriation, Education, Trailers	03/28/2016 Senate - Reported delivered to Governor at 2:25 p.m. on 3/28/16	Appropriates a total of \$9,979,000 to the Idaho Commission for Libraries, Community Colleges, the Superintendent of Public Instruction, the Office of the State Board of Education, and the STEM Action Center for fiscal year 2017; and authorizes 1 additional full-time equivalent position.
S1430	Charter Schools Debt Reserve Fund Appropriation	03/28/2016 Senate - Reported delivered to Governor at 2:25 p.m. on 3/28/16	Appropriates and Transfers \$750,000 from the Economic Recovery Reserve Fund to the Charter School Debt Reserve Fund for FY 2017.
SCR134	60% Goal Resolution	03/21/2016 Senate - Reported delivered to the Secretary of State on 03/21/16	Stating findings of the Legislature and supporting the State Board of Education's goal that 60% of Idaho citizens ages 25-34 earn a postsecondary degree or certificate by 2020 to meet the state's workforce needs.

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<u>Bill No</u>	Description	Last Action	<u>Note</u>
SCR139	Education Rule Rejected	03/24/2016 Senate - Delivered to Secretary of State on 3/24/16	RULE REJECTION - Stating findings of the Legislature and rejecting a certain rule docket of the State Board of and State Department of Education relating to Rules Governing Thoroughness.
SCR140	Education Rule Rejected	03/24/2016 Senate - Delivered to Secretary of State on 3/24/16	RULE REJECTION - Stating findings of the Legislature and rejecting a certain rule docket of the State Board of and State Department of Education relating to Rules Governing Thoroughness.
SCR141	Education Rule Rejected	03/24/2016 Senate - Delivered to Secretary of State on 3/24/16	RULE REJECTION - Stating findings of the Legislature and rejecting a certain rule docket of the State Board of and State Department of Education relating to Rules Governing Thoroughness.

Bills Not Receiving Legislative Support

Board **submitted** legislation
Board **endorsed** legislation

<u>Bill No</u>	Description	Last Action	<u>Note</u>
H0387	Community Colleges, Trustee Zones	02/05/2016 Senate - Introduced, read first time; referred to: Education	Amends and adds to existing law to provide for community college trustee zones and related provisions; to revise provisions regarding the addition of territory to community college districts; to revise provisions regarding trustees of Community College Districts; and to revise provisions regarding an appeal from an order of the State Board of Education.
H0411	Rural Teacher Loan Forgiveness	02/01/2016 House - Reported Printed and Referred to Ways & Means	Offers teachers an incentive to work in eligible rural schools impacted by a shortage of quality educators. Provides up to \$3,000 in student loan forgiveness each year for four years for eligible teachers.
H0412	Tuition Lock Account	02/01/2016 House - Reported Printed and Referred to Ways & Means	Creates a Tuition Stabilization Fund within the Idaho Higher Education Stabilization Fund. The fund is utilized as a mitigation tool to reduce tuition increases at Idaho's public four-year institutions of higher education. Funding is generated from the appropriation of surplus monies in times of economic abundance.
H0413	License Plates, Orofino HS Maniacs	03/09/2016 Senate - Introduced, read first time; referred to: Transportation	Amends and adds to existing law to provide for Idaho Friends of the Orofino Maniacs license plates.
H0414	Opportunity Scholarship Tax Credit	02/01/2016 House - Reported Printed and Referred to Ways & Means	Adds the opportunity scholarship program to those entities qualifying for an income tax credit.

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<u>Bill No</u>	Description	Last Action	<u>Note</u>
H0420	Smarter Balanced Assessment	02/01/2016 House - Reported Printed and Referred to Ways & Means	Directs the State Superintendent of Public Instruction to begin the process of removing Idaho from the Smarter Balanced Assessment Consortium (SBAC) testing requirements. Taking the SBAC test will not be a requirement for students to graduate from Idaho public schools.
H0424	Income Tax Credit, For Tuition	02/01/2016 House - Reported Printed and Referred to Ways & Means	Adds to existing law to provide a state income tax credit for Idaho postsecondary institution tuition and fee payments on behalf of an employee of a taxpayer.
H0442	Supplemental Contracts	02/05/2016 House - Reported Printed and Referred to Education	Allows school districts and charter schools to issue separate contracts for extended days beyond the traditional school year.
H0450	Literacy Intervention	02/10/2016 House - Reported Printed and Referred to Education	Literacy intervention legislation. Refiled as H526.
H0529	Continuous Improvement Plans	03/18/2016 House - Retained on General Orders	Amends existing law to provide an additional requirement for annual school district continuous improvement plans, to define the term "statewide student readiness and improvement metrics." Refiled as H560.
H0545	Local Innovation Schools	03/01/2016 House - Reported Printed and Referred to Education	Establishes the Local Innovation School Act and to provide eligibility requirements, exemptions and school agreements.
H0590	Staff Allowance	03/11/2016 House - Reported Printed and Referred to Education	Allows school districts and public charter schools to receive salary-based apportionment based on adjusted mid-term support units, if full-term support units are at least 3% greater than mid-term support units.
H0596	College And Career Advisor Funding Formula	03/11/2016 House - Reported Printed and Referred to Education	Clarifies the distribution of funding for college and career advising to school districts and public charter schools. The legislation specifies that funding will be distributed in full, or pro rata, based on secondary support units used to calculate the February 15 payment of state funds. The legislation provides funding for districts and charter school which serve all grades 8-12.
H0613	School District Trustee Elections	03/22/2016 House - U.C. to be referred to State Affairs Committee	Increases transparency in school district measure elections, including bonds, levies, and recalls applying current code regarding school district trustee elections and applying it to all school district elections including school district measure elections.
H0628	Rural Education Support Center	03/23/2016 Senate - Introduced, read first time; referred to: Education	Establishes one (1) Rural Education Support Center, in an effort to provide support, flexibility, cost sharing and personnel sharing opportunities to local school districts. A local school district, or districts, must provide a written request from their local board of trustees, in order to be provided services through the Rural Education Center. It is further defined that a Rural Education Center will be an opt-in cooperative entity, in which school services may participate. Further, an awareness campaign would be conducted to promote and create awareness of Rural Education Centers.

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<u>Bill No</u>	Description	Last Action	<u>Note</u>
H0632	Tax Credits, Med Residency Program Donation	03/21/2016 House - Reported Printed and Referred to Revenue & Taxation	Provides an income tax credit for charitable contributions made to Idaho based medical residency placement organizations accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Organization.
HCR050	Civics Test, Idaho History And Government	03/17/2016 Senate - Referred to Education	Requests that the Idaho State Board of Education adopt a rule providing that at least 20% of the questions on the civics test will be specific to Idaho state government and history. It also requests that the Board strongly consider including in the civics test some or all of the questions provided to the Board relating to Idaho state government and history.
HJR001	Sectarian Appropriations, Constitutional Amendment	01/28/2016 House - Reported Printed and Referred to State Affairs	Amends the state constitution to allow appropriations or payments (grants, scholarships, loans, etc.) to sectarian or religious institutions or to students or parents of students for educational purposes.
S1209	Community College District Property Appraisals	02/02/2016 Senate - Read third time in full	Requires community colleges to follow the same requirements as school districts when acquiring and disposing of real property. Pursuant Section 33-601, Idaho Code, school districts are authorized to purchase real property and requires they have a property appraisal conducted within one (1) year prior to any purchase. Refiled as S1320.
S1247	Civics Test Requirement Exception	02/04/2016 Senate - Reported Printed; referred to Education	Prohibits any student who receives special education services from being required to successfully complete the civics test or alternate path.
S1266	Leadership Premium	02/24/2016 House - Read First Time, Referred to Education	Increases the amount of Leadership Premium moneys from \$850 to \$900 per FTE.
S1273	School District Trustee Board Vacancies	02/09/2016 Senate - Reported Printed; referred to State Affairs	Establishes a process of filling a vacancy on a school board in the case of a recall election for a school board trustee, and to prohibit a school board subject to a recall, when a majority of the board is subject to recall, from allowing a member(s) to resign and the remaining board members appointing a new member to that board until such time as the recall election is certified.
S1289	College And Career Advisors Funding Formula	02/11/2016 Senate - Reported Printed; referred to Education	Adjusts the funding formula for college and career counseling.
S1291	Adult Degree Completion Scholarship	03/01/2016 Senate - Failed: Ayes 16 Nays 17 Excused 2; to Secretary of Senate	Adds to provide for the Adult Degree Completion Scholarship and related provisions and to require the State Board of Education to promulgate certain rules.
S1292	Tuition Lock	02/11/2016 Senate - Reported Printed; referred to Education	Amends and adds to existing law to provide for the Tuition Lock Plan for undergraduate students; and to provide for the Tuition Lock Stabilization Account in the Higher Education Stabilization Fund.
S1307	School Trustee Election Date	02/12/2016 Senate - Reported Printed; referred to Education	Amends existing law to revise the election date for school district trustees and to provide a term expiration date for incumbent trustees.

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<u>Bill No</u>	Description	Last Action	<u>Note</u>
S1308	School Trustee Elections	02/12/2016 Senate - Reported Printed; referred to Education	Requiring school district trustees to live in their zones, but allowing all voters in the school district to vote on each trustee.
S1321	Public Schools, Bible Use In School	02/15/2016 Senate - Reported Printed; referred to State Affairs	Repeals and adds to existing law to provide when the Bible is permitted to be used in the public schools.
S1331	Public Education Stabilization Fund	02/16/2016 Senate - Reported Printed; referred to Education	Amends existing laws to revise provisions regarding the Public Education Stabilization Fund, to provide for an annual transfer of certain moneys from the General Fund to the Public Education Stabilization Fund, to provide conditions for such transfer; and to revise an amount to be transferred from the General Fund to the Budget Stabilization Fund.
S1335	Open Meeting Laws, Executive Sessions	02/16/2016 Senate - Reported Printed; referred to State Affairs	Amends existing law to revise conditions when an executive session is authorized regarding the acquisition, sale or lease of an interest in real property by a public agency.
S1337	Public Charter School Replication	02/16/2016 Senate - Reported Printed; referred to Education	Amends and adds to existing law regarding public charter schools. Refiled as S1376.

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SUBJECT

Accountability Oversight Committee Recommendations

REFERENCE

October 2015	Accountability Oversight Committee Chair, Spencer Barzee, presented the committee's general recommendations for the state's new K-12 accountability system.
February 2016	Board received an update regarding the timeline for the Accountability Oversight Committee to bring forward recommendations to the Board on a new State K-12 accountability system.

APPLICABLE STATUTE, RULE, OR POLICY

Idaho State Board of Education Governing Policies & Procedures, Section III.AA. Accountability Oversight Committee
Section 33-110, Idaho Code – Agency to Negotiate, and Accept, Federal Assistance
Idaho Administrative Code, IDAPA 08.02.02 – Section 111, Assessment in the Public Schools; IDAPA 08.02.02 – Section 112, Accountability; IDAPA 08.02.02 – Section 113, Rewards; IDAPA 08.02.02 – Section 114, Failure to Meet Adequate yearly Progress (AYP); and IDAPA 08.02.03 – Section 105.

BACKGROUND/DISCUSSION

The Accountability Oversight Committee (committee) was established in April 2010 as an ad-hoc committee of the Idaho State Board of Education. It provides oversight of the K-12 statewide assessment system, ensures effectiveness of the statewide system, and recommends improvements or changes as needed to the Board.

On December 10, 2015, President Obama signed the Every Student Succeeds Act (ESSA) reauthorizing the Elementary and Secondary Education Act of 1965. Pursuant to ESSA, states must implement new accountability systems aligned to the Act by the 2017-2018 school year.

In January 2016, the Policy, Planning and Governmental Affairs Committee requested that the committee lead the efforts to gather input and make recommendations to the Board on a new statewide K-12 accountability system, with the goal of doing a statewide pilot of the system during the 2016-2017 school year. At the February 2016 Board meeting the Board was updated on the timeline for the committee to bring forward these recommendations for consideration. The committee is meeting twice per month and will present recommendations for a new accountability system to the Board at the June 2016 meeting.

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As part of the discussion at the February 2016 Board meeting the committee was directed to make recommendations that would lead to a single accountability system that would meet not only the new Federal requirements but also the state's needs for a comprehensive system of accountability that could then allow for greater autonomy at the district level.

In addition to recommendations on a statewide K-12 accountability system, at the committee's February 5, 2016, meeting, committee members discussed state graduation requirements that tangentially affect the state's options in developing a new accountability system. The committee moved to make the following recommendations to the State Board of Education:

1. Eliminate the ISAT proficiency graduation requirement, but maintain a requirement that high school students must participate in the test in order to graduate.
2. Eliminate the college entrance exam graduation requirement, and request that the Idaho Legislature maintain funding for the state to pay for one college entrance exam per student. Acceptable exams would include the SAT, ACT, or WorkKeys.

The rationale for these recommendations is provided in Attachment 1.

IMPACT

The proposed recommendations would require amendments to Administrative Code Sections 08.02.03.105.03 and 08.02.03.105.06. Should the Board adopt the recommendations, Board staff will start the Administrative Rule promulgation process and would bring back a proposed rule for Board consideration by the August Board meeting. Adoption of these recommendations would result in the removal of the requirements from Administrative Code in their entirety. Future requests to fund any college entrance exams would be through the appropriations process.

ATTACHMENTS

Attachment 1 – AOC Recommendations Report, March 2016

Page 5

STAFF COMMENTS AND RECOMMENDATIONS

The current state graduation requirements pursuant to Idaho Administrative Code, IDAPA 08.02.03.105 require, in addition to a minimum number of credits in specific content areas, that each student show proficiency through achievement of a "proficient" or "advanced" score on the grade 10 Idaho Standards Achievement Test (ISAT) in math, reading and language usage, or show proficiency through an alternate route established by the school district, and that all students take a college entrance exam in grade 11.

The current proficiency requirement aligns with the State's comprehensive assessment program set forth in IDAPA 08.02.03.111. The existing assessment program requires the ISAT be administered to students in grades 9 and 10, and as applicable to students in grade 11. The minimum proficiency level requirement for graduation purposes was adopted by the State Board of Education in 2003 and accepted by the legislature in 2004 with an effective date of January 1, 2006. The proficiency graduation requirement was an original recommendation of the Board's Accountability Commission in 2003. The Commission was charged with establishing accountability measures for the state comprehensive assessment program that was put in place in 2001 as well as establishing the state's accountability system and Federal Accountability Workbook. The proficiency graduation requirements were included in the Commission's 2003 recommendations, in part, to ensure that graduating students had mastered required subjects, as well as met attendance requirements.

The college entrance exam requirement was added as part of the High School Redesign Initiative of the Board in 2003. This initiative increased the rigor of the state's high school graduation requirements by increasing the number of credits required in math and science, requiring senior projects be completed, requiring that math be taken during the senior year, and requiring that students take a college entrance exam to graduate. While not fully realized, the initiative also contemplated moving toward a standards based approach rather than the prior seat time credit requirement. This included using end of course assessments and standards-based portfolios and examinations for determining proficiency in the standards to graduate and expanding the ISAT science assessment to every grade level.

The requirement to take a college entrance exam was based in part on research from other states that showed it had helped to increase the number of students going on to postsecondary education. Additional data showed that college entrance exams were a barrier to students going on to college when the students came from homes where they were the first individual in the family to go on to a postsecondary education or came from families that did not value postsecondary education. These students often did not have the support or the information needed to understand the importance of taking a college entrance exam and were less likely to voluntarily take the exam. Requiring all students take a college entrance exam reached this group of students as well as students that chose not to take the exam because they did not think they would be successful.

By requiring the exam be taken in grade 11, students who initially did not do well on the exam could use the exam to identify areas that needed improvement and then retake the exam during their senior year. Those students that did well on the exam in grade 11 were able to use the exam in completing initial college entrance and scholarship applications. The High School Redesign Initiative was adopted by the Board in 2004. Following additional public and legislative input,

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Initiative components were refined with final Administrative Code amendments adopted by the Board in 2005 and approved by the legislature in 2006. The additional credit requirements were made effective for students entering grade 9 in the Fall of 2009 and the college entrance exam requirement was made effective for students entering grade 9 in the Fall of 2008. This initiative was also accompanied by significant budget requests starting in FY 2007. Due to the college entrance exam being a graduation requirement, the Board and the State Department of Education were successful in winning legislative support for state funding to cover the cost for all students to take the college entrance exam (based on a statewide contract). The first graduating class subject to the college entrance exam requirement was the class of 2012. The impact of this requirement on Idaho's Go On rate is unknown due to the limited number of student cohorts that have graduated since the requirement went into effect. Additional benefits that were not contemplated as part of the original initiative have been the ability to use the college entrance exam to identify students for the Direct Admissions initiative and the recommendation from the Governor's Taskforce subcommittee on Accountability and Autonomy that the college entrance exam be used as one of the standard performance measure used by all school districts (as applicable) in their continuous improvement plans. If students were not required to take a college entrance exam, it is possible that state funding of the entrance exam would be negatively impacted, and:

1. One of the 2 prongs currently used for admissions under the Board's Direct Admission program would be lost; and
2. Fewer students might see post-secondary education as a viable option.

The committee recommendation also lists "WorkKeys" as an acceptable exam under the list of optional "college entrance exams." WorkKeys is an assessment administered by ACT and is used to measure essential workplace skills and help build career pathways. The only current identified use for this exam in the Idaho public postsecondary education system appears to be in relation to its use as part of the Work Keys National Career Readiness Certificate, which is recognized by the Division of Career Technical Education as an approved technical skills assessment for the Individual Occupational Training program and is given at the end of this postsecondary program. It is not currently used by Idaho's education system to determine career readiness and is not designed to measure college readiness.

BOARD ACTION

I move to adopt the Accountability Oversight Committees recommendations regarding proposed amendments to the State's graduation requirements and to direct Board staff to bring back proposed amendments to Administrative Code through the rulemaking process.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

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Accountability Oversight Committee
Recommendations Report, March 2016

Members:

Spencer Barzee (Chair)	Superintendent, Westside School District
Linda Clark	Member, State Board of Education
Debbie Critchfield	Member, State Board of Education
John Goedde	Former Idaho State Senator and School Board Trustee, Coeur d'Alene District #271
Deborah Hedeon	Dean, College of Education, Idaho State University
Pete Koehler	Chief Deputy Superintendent, Idaho State Department of Education
Jackie Thomason	Chief Academic Officer, West Ada School District
Alison Henken (staff support)	K-12 Accountability and Projects Manager, Idaho Office of the State Board of Education

Subcommittee Charge:

To provide recommendations regarding the re-development of the statewide K-12 school accountability system.

Guiding Principles:

We support an accountability system that:

1. Includes multiple measures which provide meaningful, trustworthy data and aid schools in building a culture of student achievement and school improvement.
2. Reports results responsibly to accurately depict student achievement.
3. Is flexible in its application to school design and considers schools' unique situations.

Recommendations:

The Accountability Oversight Committee, while in the process of developing recommendations regarding the state's accountability system, has recognized that certain state graduation requirements have an impact on the committee's plans for a new accountability system. Thus, the committee has discussed key, related graduation requirements, as outlined in Administrative Code, and recommends the following.

1. **We recommend the State Board of Education eliminate the ISAT proficiency graduation, but maintain a requirement that high school students must participate in the test to graduate.**

Rationale:

- a. The ISAT proficiency graduation requirement puts inappropriate focus on a student's ability to achieve a certain cut score number on a standardized test, rather than looking at whether the student has mastered a well-rounded set of skills. The ISAT should be used to help schools, educators, and parents know where a student is, and the state should leave it to the school / district to determine how to support students who do not perform well on the assessment, based on the particular situation of that student.
 - b. The ISAT proficiency graduation requirement is unnecessary, since students have the option to complete an alternate route to graduation, and there is no incentive for districts to make the alternate route challenging.
 - c. As long as the state maintains the ISAT proficiency graduation requirement, it will be difficult for the state to consider shifting testing for accountability purposes from the 10th to the 11th grade, as the change would substantially limit schools options to work with non-proficient students to meet the graduation requirement through testing rather than completion of an alternate route to graduation. The Smarter Balanced Assessment system was designed to have the high school test administered in 11th grade, and the Accountability Oversight Committee is interested in considering shifting the high school accountability test from 10th to 11th grade for a number of reasons. First, this change would be in alignment to the intended design of the Smarter Balanced Assessment system and would align Idaho's practices to those of other Smarter Balanced Assessment Consortium states. Second, testing in 11th grade better reflects a student's knowledge and skills in the latter part of their high school career, thus providing a more accurate picture regarding that student's preparedness and how well the student's school has done at preparing him/her. Finally, shifting to 11th grade would allow the State Board of Education to re-open discussions with institutions of higher education regarding creating a framework to allow students' 11th grade ISAT scores to be used for college coursework placement.
- 2. We recommend the State Board of Education eliminate the college entrance exam graduation requirement, and request that the Idaho Legislature maintain funding for the state to pay for one college entrance exam per student, with acceptable exams to include the SAT, ACT, or Workkeys (at a minimum).**
- a. The Accountability Oversight Committee recommends that, if possible, this change take effect in the 2016-2017 school year.

Rationale:

- a. Having this requirement in place has not resulted in a substantial, measurable increase in college go-on rates.
- b. Currently, the state only pays for one type of college entrance exam (SAT currently has the contract). However, this does not address the needs of all students. While some students may need the SAT to pursue a four-year degree at a college or university, others may be applying to an institution that only accepts the ACT, and thus have to pay for the exam on their. Additionally, the policy requires many students who intend to pursue other forms of higher

education (community college, technical program, certificate program, etc.) to take an unnecessary assessment. Removing the graduation requirement, but covering the cost of one college entrance exam per student with as many options as possible is a more student-centered approach.

- c. Based on research, a student's college entrance exam may not be the best indicator of whether he/she is prepared for success in higher education. However, because Idaho does a statewide administration of the test, the resulting data is often used to measure postsecondary readiness. In fact, research has demonstrated that high school GPA has a higher correlation to college success than college entrance exam scores¹.
- d. The requirement for students to take a college entrance exam is an additional impediment to the state's ability to move the high school accountability test from 10th to 11th grade (for the reasons outlined in 1.c.). Currently, in order to enable students to easily meet the college entrance exam requirement, the state pays for the exam and it is administered statewide on a specific day. The targeted group for this administration is 11th grade students. If the state shifts the accountability test to 11th grade and maintains the college entrance exam requirement, 11th grade students will have to complete two substantial tests required by the state in the same year.

References

- 1. Geiser, S. and Santelices, M. (2007). "Validity of High-School Grades in Predicting Student Success Beyond the Freshman Year: High-School Record vs. Standardized Tests as Indicators of Four-Year College Outcomes." *Research & Occasional Paper Series: CSHE.6.07*. Center for Studies in Higher Education, University of California, Berkeley. Web at <http://www.cshe.berkeley.edu/sites/default/files/shared/publications/docs/ROPS.GEISER.SAT.6.13.07.pdf>.
- 2. O'Shaughnessy, L. (2014). "Confirmed: High School GPAs Predict College Success." CBS News. Web at <http://www.cbsnews.com/news/confirmed-high-school-gpas-predict-college-success/>.

¹ Geiser & Santelices, 2007; O'Shaughnessy, 2014

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SUBJECT

Board Policy I.P. Idaho Indian Education Committee – First Reading

REFERENCE

December 6-7, 2007	The Board was provided an update on the Native American Higher Education Committee's progress.
June 20, 2008	The Board approved the Committee moving forward with scheduling future meetings with each of the Tribes and charged the Committee with reviewing how Board policy can meet the underserved need in the communities through advanced opportunities.
February 21, 2013	The Board approved the first reading of Board Policy I.P.
April 18, 2013	The Board approved the second reading of Board Policy I.P.

APPLICABLE STATUTE, RULE, OR POLICY

Idaho State Board of Education Governing Policies & Procedures, Section I.P.
Idaho Indian Education Committee

BACKGROUND/DISCUSSION

The State Board of Education Idaho Indian Education Committee serves as an advisory committee to the State Board of Education (Board) and the State Department of Education (Department) on educational issues and how they impact opportunity, success, and access for Idaho's American Indian student population. The committee also serves as a vital communication connection for Idaho's American Indian tribes, the Board, and the Department.

Board Policy I.P. outlines the role and purpose of the committee, committee structure, and terms of membership. Proposed amendments to Board Policy I.P. would remove sections covering meeting location, quorum requirements, and establishment of agendas and minutes and move them to the proposed bylaws that will be presented to the Board for consideration at the June 2016 Board meeting should the Board approve the first reading of the proposed amendment to Board Policy I.P.

Additional amendments include changing the representatives in the committee composition from the five tribal education "affiliations" to five tribal education "departments," Which is consistent with the terms most commonly used by tribal communities. Changes also include language to provide that the Bureau of Indian Education schools may include a school board member, administrator, or designee. This would provide more flexibility to the schools in identifying a representative.

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IMPACT

Approval of amendments will streamline policy language and allow the committee to fulfill its intended purpose. The amendments will also provide greater definition to the role of the committee and its members.

ATTACHMENTS

Attachment 1 – Board Policy I.P. Idaho Indian Education Committee	Page 3
Attachment 2 – Proposed Committee By-laws	Page 5

STAFF COMMENTS AND RECOMMENDATIONS

Staff worked with Department staff to develop amendments that would create efficiencies. At the March 4, 2016 meeting, the Indian Education Committee reviewed the policy amendments and recommended approval with a few minor edits.

Board staff recommends approval.

BOARD ACTION

I move to approve the first reading of amendments to Board Policy I.P. Idaho Indian Education Committee – First Reading, as presented in attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

Idaho State Board of Education
GOVERNING POLICIES AND PROCEDURES

SECTION: I. General Policies

SUBSECTION: P. Idaho Indian Education Committee

April 2013 June 2016

1. Purpose

The purpose of the Idaho Indian Education Committee (Committee) is to advocate for American Indian students, act as an advisory body to the State Board of Education and the State Superintendent of Public Instruction, and serve as a link between the ~~American Indian Tribes~~ five Idaho tribes. The mission of the ~~Idaho Indian Education~~ Committee is to create the conditions for and support of the efforts of raising the bar and eliminating the ~~gap of~~ academic achievement gap.

2. Roles and Responsibilities

In order to ensure all American Indian students in Idaho thrive, reach their full potential, and have access to educational services and opportunities, the scope of responsibilities shall include, ~~but not be limited to~~, the following:

a. Advocate and inform stakeholders, and make recommendations for educational policy as it relates to American Indian student access, retention, graduation, and achievement.

b. Review and make recommendations on instructional materials to ensure inclusion of tribal cultural knowledge and tribal context at ~~the elementary, middle/junior high, and high school, and postsecondary level~~ all education levels.

c. Review and make recommendations on ~~Teacher Certification Programs~~ educator certification and recertification programs to ensure inclusion of tribal cultural knowledge and tribal context.

~~d.~~ Review and make recommendations on educator preparation program standards to ensure inclusion of tribal cultural knowledge and context.

e. Review and make recommendations to ensure integration and use of tribal cultural knowledge and ~~tribal~~ context as a component of instructional practice in schools that serve predominantly American Indian students.

ef. Review and make recommendations on funding and programs that serve American Indian students. ~~To include, but not be limited to: Johnson O'Malley, Impact Aid, Title VII, and Enrichment Programs.~~

~~f.~~ Review American Indian student achievement data to include, but not be limited to, K-12 standardized tests, K-12 and postsecondary graduation, retention,

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~~dropout, and completion data; health and safety data; suicide prevention data; drug violence data.~~

- g. Review relevant education data to make recommendations on statewide policies, procedures, and to collaborate with Idaho tribes to reflect accurate statistics for making policy recommendations.
- h. Identify and promote best practices in supporting the success of American Indian students.
- i. The Committee shall meet at a minimum quarterly.

3. Membership

The Idaho Indian Education Committee ~~(Committee)~~ membership shall be composed of the following:

- One representative from each of the eight public postsecondary institutions
 - ~~The representative should be from an Advisory Committee or a Designee (Board Nominations will request nomination be submitted from the Provost/Institution President)~~
- One representative from each of the five tribal chairs or designee
- One representative from each of the five tribal education ~~affiliations (K-12) departments~~
- One representative from each of the two Bureau of Indian Education schools
 - Representatives must be a school board member, administrator, or designee
- One representatives from the State Board of Education, ~~as an ex-officio member~~

Original appointments shall be for terms that are initially staggered to provide a rolling renewal of appointments. Thereafter, appointments shall be for five years, commencing on July 1st. All members of the Committee shall have equal voting privileges.

Appointments to vacant positions during the previous incumbent's term shall be for the remainder of the open term.

The Committee shall elect officers, to include a chairperson and vice-chairperson. Officers are elected to a two (2) year ~~term~~term at a regularly scheduled spring meeting. No elected officer may serve more than two (2) consecutive terms.

Staff support will come from the State Department of Education through the Indian Education Coordinator position and the Office of the State Board of Education ~~through the Chief Academic Officer and Academic Affairs Program Manager~~, and will include the following:

- Advisory Advisor to the Chair and Committee
- Liaison between Committee and the State Board of Education, State Department of Education, Colleges and Universities, and other stakeholders

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- ~~Prepares~~Preparation of the agenda with input from the Committee
- ~~Notifies~~Notification to Committee of upcoming meetings and other communications
- ~~Records, publishes~~Compilation of records, publications and ~~disseminates~~disseminating minutes of meetings

~~Chairperson: Conducts the~~ Board of Education Idaho Indian Education Committee meetings.

~~Vice-Chairperson: Acts on behalf of the Chairperson in their absence.~~

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Board of Education Idaho Indian Committee
Bylaws

June 2016

A. Meetings

1. The Committee holds at least four (4) regular meetings annually. A quorum of the Committee consists of eight (8) voting members with the option to poll absent members to reach 8 for a response within three (3) days. A quorum shall be present to conduct any official business.
2. Meeting locations shall be determined by the Committee.

B. Membership

Committee members must uphold the goals and objectives of the Committee and give adequate time and energy to the duties of membership. Decision making is a collective action and all members have a joint responsibility for decisions and actions.

C. Nominating Process

A letter of recommendation for representation of the appropriate entity shall be submitted to the Board of Education (Board) office and receive Board approval before an appointee may act in an official capacity of the Committee.

D. Voting privileges

A Committee member unable to attend a meeting either in person or by telephone conference may send a proxy in his or her place. The proxy will have full voting privileges upon receipt from the absent member of a written statement or a tribal resolution to the chair and staff. Notification must include name and position of proxy and a statement authorizing the proxy to act in the official capacity, including full voting rights, for the determined time period of the meeting, and the proxy has support for voting on behalf of the committee member. The proxy may not vote without this notification.

E. Duties of the Officers

1. The Chair
 - a. Presides at Committee meetings, with full power to discuss and vote on all matters before the Committee.
 - b. Submits such information and recommendations considered proper concerning the business and interests of the Committee.
 - c. Subject to action of the Committee, gives notice and establishes the dates and locations of all regular Committee meetings.
 - d. Calls special meetings of the Committee.

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- e. Appoints Committee members to all standing and interim working groups of the Committee.
- f. Establishes the agenda in consultation with the staff support.
- g. Provides communication to the public as chief spokesperson for the Committee in coordination with the Board and State Department of Education (Department) Communications officers.

2. The Vice Chair

- a. Presides at meetings in the event of absence of the Council chair.
- b. Performs the Council chair's duties in the event of the Council chair's inability to do so.
- c. Becomes the acting Council chair in the event of the resignation or permanent inability of the Council chair until such time as a new chair is elected.

F. Duties of Staff Support

The staff will work to maintain effective communication among the Committee members, Department, Board office, Board, and key stakeholders. Staff will uphold appropriate organizational structure to carry out the work of the Committee. Staff will provide structure for the meetings, review the progress of the Committee's work, and identify areas of strengths and weaknesses.

1. Board Staff

Provide support to the Chair to carry out the purpose of the Committee. Report on relevant activities of the Board office and the Board. Provide the Board office and the Board of an overview of the Committee's work. Collaborate with the Department staff on communication, meeting details, and other items as necessary to the purpose and duties of the Committee.

2. Department Staff

Provide support to the Chair to carry out the purpose of the Committee. Report on relevant activities of the Department and appropriate key stakeholders. Provide the Superintendent of Public Instruction an overview of the Committee's work. Collaborate with the Program Manager on communication, meeting details, and other items as necessary to the purpose and duties of the Committee.

G. Administration of Committee Work

- 1. Special Committee assignments shall be designated at the discretion of the Board.
- 2. Coordination and collaboration of policies and procedures are conducted to maintain the integrity of the Board and the Department.

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3. Dissemination of official committee information will go through the Board office and Department.

H. Adoption, Amendment, and Repeal of Bylaws

1. Bylaws and amendments must be approved by the Board before they are officially instituted by the Committee.
2. Recommendations for amendments or repeals of bylaws may be approved at any regular or special meeting of the Committee by a majority vote of the Committee, provided notice has been presented at the preceding meeting of the Committee.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
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SUBJECT

Board Policy I.T. Title IX – First Reading

APPLICABLE STATUTE, RULE, OR POLICY

Education Amendments of 1972, 10 USC §1681
Title IX, CFR §106.1

BACKGROUND/DISCUSSION

Title IX of the Education Amendments of 1972 and its implementing regulations, 34 C.F.R. Sec. 106 (“Title IX”), prohibit discrimination on the basis of sex in federally funded education programs and activities. Title IX protects students, employees, applicants for admission and employment, and campus visitors from all forms of sexual harassment, including sexual violence and gender-based harassment. Examples of the types of discrimination prohibited by Title IX include sexual harassment, the failure to provide equal opportunity in athletics, and discrimination based on pregnancy. To enforce Title IX, the U.S. Department of Education maintains an Office for Civil Rights (OCR) and has issued regulations on the requirements.

All public and private elementary and secondary schools, school districts, and colleges and universities receiving any federal financial assistance must comply with Title IX.

Recent guidance from OCR has increased the compliance activities necessary at the colleges and university. Board staff and legal counsel have worked with staff at all eight of the Institutions to develop an overarching Board policy to provide guidance regarding compliance with Title IX.

The proposed policy outlines requirements for the publication of the institutions’ Title IX policies and procedures as well as notification of the institutions’ Title IX resources. Additionally, the policy requires the institutions designate a Title IX coordinator and establish policies and procedures for the education of students and training to prevent sexual violent; the education of parties receiving or adjudicating Title IX complaints, investigations and resolution of Title IX violations, and how disciplinary actions are handled.

IMPACT

The proposed policy will provide guidance to the institutions on meeting Title IX requirements.

ATTACHMENTS

Attachment 1 – Board Policy, I.T. Title IX	Page 3
Attachment 2 – Office for Civil Rights Title IX Guidance	Page 7

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STAFF COMMENTS AND RECOMMENDATIONS

The proposed policy creates a new section of Board policy. Input on the proposed policy was solicited from the Institutions' provosts and vice presidents of academic affairs, student affairs directors, Title IX coordinators and legal counsel. Once drafted, the policy was distributed to these groups with a request that they further distribute the draft to any additional constituent groups for feedback.

The proposed policy has been drafted based on OCR guidance, a review of existing institution policies, and the feedback received from the institutions. Board staff recommends approval.

BOARD ACTION

I move to approve the first reading of Board Policy I.T. Title IX as submitted in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

Idaho State Board of Education

GOVERNING POLICIES AND PROCEDURES

SECTION: I. GENERAL GOVERNING POLICIES AND PROCEDURES

SUBSECTION: T. Title IX

June 2016

1. This subsection shall apply to the University of Idaho, Boise State University, Idaho State University, Lewis-Clark State College, Eastern Idaho Technical College, College of Southern Idaho, College of Western Idaho, and North Idaho College (hereinafter "Institutions").

Title IX of the Education Amendments of 1972 and its implementing regulations, 34 C.F.R. Sec. 106 ("Title IX"), prohibit discrimination on the basis of sex in federally funded education programs and activities. Title IX protects students, employees, applicants for admission and employment, and campus visitors from all forms of sexual harassment, including sexual violence and gender-based harassment.

Sexual violence includes sexual intercourse without consent, sexual assault, and sexual coercion. Prohibited gender-based harassment may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

This Policy is intended to supplement, not duplicate, Title IX guidance from the federal Department of Education's Office of Civil Rights ("OCR") for Institutions regarding their compliance with Title IX, specifically in regard to sexual harassment or sexual violence. Institutions should go beyond the requirements of this policy as necessary to address Title IX issues unique to individual campus populations so that students are able to fully receive the benefits of educational programs.

2. Institution Title IX policies

Each institution shall publish its Title IX policies and procedures for students, staff and faculty. Such policies and procedures shall be updated as necessary and appropriate to comply with Title IX and guidance from OCR. Title IX coordinators shall be involved in the drafting and revision of such policies to ensure compliance with Title IX. If an institution is represented by legal counsel, its attorney also shall review the institution's policies for compliance with Title IX and OCR guidance. Policies shall clearly describe the process for resolving alleged violations of Title IX.

3. Notification of institution Title IX policy and resources

Notification of institution Title IX policy and resources shall be readily accessible. Institutions shall ensure that the notices of nondiscrimination on the basis of sex required by Title IX are placed prominently on their website home pages, in addition to the placement of notices in offices where students receive services, and included in printed publications for general distribution. Webpage notices shall include easily accessible links to all applicable institution policies as well as a clear and succinct direction regarding:

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- reporting Title IX violations
- accommodations and services available for complainants
- the investigation
- and hearing process, including appeal rights, and all applicable time frames
- the institution's Title IX coordinator, including the Title IX coordinator's name and contact information

4. Title IX Coordinators

Each institution shall designate a Title IX Coordinator who shall be an integral part of an institution's systematic approach to ensuring Title IX compliance. Title IX coordinators shall have the institutional authority and resources necessary to promote an educational environment that is free of discrimination, which includes stopping any harassment and preventing any reoccurring harassment, as well as the authority to implement accommodations during an investigation so that the complainant does not suffer additional effects of the sexual discrimination or violence.

Institutions are encouraged to facilitate regular communication between Title IX coordinators in order for them to share best practices and training resources.

5. Education of Students and Training to Prevent Sexual Violence

Institutions shall implement evidence informed strategies that seek to prevent sexual harassment, sexual assault, gender based violence and high-risk activities, including alcohol education programming and other student outreach efforts (e.g. bystander education programming). Data shall be collected from an institution's constituency on a regular basis to evaluate and improve on the institution's efforts to prevent sexual discrimination.

6. Education of parties receiving or adjudicating Title IX complaints

All employees shall receive training pertaining to Title IX and the institution's Title IX policy. Employees likely to witness or receive reports of sexual harassment and sexual violence shall receive enhanced training which, at a minimum, includes the requirements of Title IX, the proper method for reporting sexual harassment and sexual violence, and the institution's responsibilities for responding to reports of sexual harassment and sexual violence. Institution employees who will likely require enhanced training include: Title IX coordinators, campus law enforcement personnel, student conduct board members, student affairs personnel, academic advisors, residential housing advisors, and coaches. All employees who learn of an allegation of sexual harassment, including sexual violence and gender-based harassment, (and are not required by law to maintain the confidentiality of the disclosure, such as licensed medical professionals or counselors) are required to report it to the Title IX coordinator within 24 hours.

Fact finders and decision makers involving resolution of Title IX violations shall also have adequate training or knowledge regarding sexual assault, including the interpretation of relevant medical and forensic evidence.

7. Investigation and resolution of Title IX violations

An institution shall take immediate steps to protect a complainant in the educational setting. Individuals reporting being subjected to sexual violence shall be notified of counseling and medical resources, and provided with necessary accommodations such as academic adjustments and support services, and changes to housing arrangements. In some cases, a complainant may need extra time to complete or re-take a class or withdraw from a class without academic or financial penalty. Institutions shall not wait for the conclusion of a criminal investigation or proceeding before commencing a Title IX investigation.

Institution Title IX policies shall include a prompt and equitable process for resolution of complaints as early as possible in order to effectively correct individual or systemic problems. Both the complainant and the respondent shall be provided an opportunity to explain the event giving rise to the complaint. All timeframes shall be clearly communicated with the parties and regular status updates shall be provided. Both parties to a complaint shall be notified in writing of the outcome of the complaint, including whether sexual harassment or violence was found based upon a preponderance of the evidence to have occurred and, in accordance with federal and state privacy laws, the sanction imposed. Both the complainant and respondent shall have the same rights of appeal.

In cases involving a student-respondent, withdrawal from the institution shall not be used as a method to avoid completion of the investigation. An institution may place a hold on a student-respondent's student account or otherwise temporarily restrict his or her ability to request an official transcript until completion of the investigation.

8. Disciplinary Actions

If a student is found to have violated an institution's Title IX policy, disciplinary action shall be imposed in accordance with the institution's student code of conduct. If the student is suspended or expelled, that action shall be noted in the student's education records and communicated to a subsequent institution at which the student seeks to enroll, provided that the subsequent institution or student has requested the student's education record from the prior institution. If an institution employee is found to have violated an institution's Title IX policy, disciplinary action will be imposed in accordance with the applicable institution's human resources policies and procedures.

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UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

Questions and Answers on Title IX and Sexual Violence¹

Title IX of the Education Amendments of 1972 ("Title IX")² is a federal civil rights law that prohibits discrimination on the basis of sex in federally funded education programs and activities. All public and private elementary and secondary schools, school districts, colleges, and universities receiving any federal financial assistance (hereinafter "schools", "recipients", or "recipient institutions") must comply with Title IX.³

On April 4, 2011, the Office for Civil Rights (OCR) in the U.S. Department of Education issued a Dear Colleague Letter on student-on-student sexual harassment and sexual violence ("DCL").⁴ The DCL explains a school's responsibility to respond promptly and effectively to sexual violence against students in accordance with the requirements of Title IX.⁵ Specifically, the DCL:

- Provides guidance on the unique concerns that arise in sexual violence cases, such as a school's independent responsibility under Title IX to investigate (apart from any separate criminal investigation by local police) and address sexual violence.

¹ The Department has determined that this document is a "significant guidance document" under the Office of Management and Budget's Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007), available at www.whitehouse.gov/sites/default/files/omb/fedreg/2007/012507_good_guidance.pdf. The Office for Civil Rights (OCR) issues this and other policy guidance to provide recipients with information to assist them in meeting their obligations, and to provide members of the public with information about their rights, under the civil rights laws and implementing regulations that we enforce. OCR's legal authority is based on those laws and regulations. This guidance does not add requirements to applicable law, but provides information and examples to inform recipients about how OCR evaluates whether covered entities are complying with their legal obligations. If you are interested in commenting on this guidance, please send an e-mail with your comments to OCR@ed.gov, or write to the following address: Office for Civil Rights, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, D.C. 20202.

² 20 U.S.C. § 1681 *et seq.*

³ Throughout this document the term "schools" refers to recipients of federal financial assistance that operate educational programs or activities. For Title IX purposes, at the elementary and secondary school level, the recipient generally is the school district; and at the postsecondary level, the recipient is the individual institution of higher education. An educational institution that is controlled by a religious organization is exempt from Title IX to the extent that the law's requirements conflict with the organization's religious tenets. 20 U.S.C. § 1681(a)(3); 34 C.F.R. § 106.12(a). For application of this provision to a specific institution, please contact the appropriate OCR regional office.

⁴ Available at <http://www.ed.gov/ocr/letters/colleague-201104.html>.

⁵ Although this document and the DCL focus on sexual violence, the legal principles generally also apply to other forms of sexual harassment.

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- Provides guidance and examples about key Title IX requirements and how they relate to sexual violence, such as the requirements to publish a policy against sex discrimination, designate a Title IX coordinator, and adopt and publish grievance procedures.
- Discusses proactive efforts schools can take to prevent sexual violence.
- Discusses the interplay between Title IX, the Family Educational Rights and Privacy Act (“FERPA”),⁶ and the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (“Clery Act”)⁷ as it relates to a complainant’s right to know the outcome of his or her complaint, including relevant sanctions imposed on the perpetrator.
- Provides examples of remedies and enforcement strategies that schools and OCR may use to respond to sexual violence.

The DCL supplements OCR’s *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties*, issued in 2001 (*2001 Guidance*).⁸ The *2001 Guidance* discusses in detail the Title IX requirements related to sexual harassment of students by school employees, other students, or third parties. The DCL and the *2001 Guidance* remain in full force and we recommend reading these Questions and Answers in conjunction with these documents.

In responding to requests for technical assistance, OCR has determined that elementary and secondary schools and postsecondary institutions would benefit from additional guidance concerning their obligations under Title IX to address sexual violence as a form of sexual harassment. The following questions and answers further clarify the legal requirements and guidance articulated in the DCL and the *2001 Guidance* and include examples of proactive efforts schools can take to prevent sexual violence and remedies schools may use to end such conduct, prevent its recurrence, and address its effects. In order to gain a complete understanding of these legal requirements and recommendations, this document should be read in full.

Authorized by

/s/

Catherine E. Lhamon
Assistant Secretary for Civil Rights

April 29, 2014

⁶ 20 U.S.C. §1232g; 34 C.F.R. Part 99.

⁷ 20 U.S.C. §1092(f).

⁸ Available at <http://www.ed.gov/ocr/docs/shguide.html>.

Notice of Language Assistance
Questions and Answers on Title IX and Sexual Violence

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A. A School's Obligation to Respond to Sexual Violence

A-1. What is sexual violence?

Answer: Sexual violence, as that term is used in this document and prior OCR guidance, refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (*e.g.*, due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by school employees, other students, or third parties. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX.

A-2. How does Title IX apply to student-on-student sexual violence?

Answer: Under Title IX, federally funded schools must ensure that students of all ages are not denied or limited in their ability to participate in or benefit from the school's educational programs or activities on the basis of sex. A school violates a student's rights under Title IX regarding student-on-student sexual violence when the following conditions are met: (1) the alleged conduct is sufficiently serious to limit or deny a student's ability to participate in or benefit from the school's educational program, *i.e.* creates a hostile environment; and (2) the school, upon notice, fails to take prompt and effective steps reasonably calculated to end the sexual violence, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects.⁹

A-3. How does OCR determine if a hostile environment has been created?

Answer: As discussed more fully in OCR's *2001 Guidance*, OCR considers a variety of related factors to determine if a hostile environment has been created; and also considers the conduct in question from both a subjective and an objective perspective. Specifically, OCR's standards require that the conduct be evaluated from the perspective of a reasonable person in the alleged victim's position, considering all the circumstances. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. Indeed, a single or isolated incident of sexual violence may create a hostile environment.

⁹ This is the standard for administrative enforcement of Title IX and in court cases where plaintiffs are seeking injunctive relief. *See 2001 Guidance* at ii-v, 12-13. The standard in private lawsuits for monetary damages is actual knowledge and deliberate indifference. *See Davis v. Monroe Cnty Bd. of Educ.*, 526 U.S. 629, 643 (1999).

A-4. When does OCR consider a school to have notice of student-on-student sexual violence?

Answer: OCR deems a school to have notice of student-on-student sexual violence if a responsible employee knew, or in the exercise of reasonable care should have known, about the sexual violence. See question D-2 regarding who is a responsible employee.

A school can receive notice of sexual violence in many different ways. Some examples of notice include: a student may have filed a grievance with or otherwise informed the school's Title IX coordinator; a student, parent, friend, or other individual may have reported an incident to a teacher, principal, campus law enforcement, staff in the office of student affairs, or other responsible employee; or a teacher or dean may have witnessed the sexual violence.

The school may also receive notice about sexual violence in an indirect manner, from sources such as a member of the local community, social networking sites, or the media. In some situations, if the school knows of incidents of sexual violence, the exercise of reasonable care should trigger an investigation that would lead to the discovery of additional incidents. For example, if school officials receive a credible report that a student has perpetrated several acts of sexual violence against different students, that pattern of conduct should trigger an inquiry as to whether other students have been subjected to sexual violence by that student. In other cases, the pervasiveness of the sexual violence may be widespread, openly practiced, or well-known among students or employees. In those cases, OCR may conclude that the school should have known of the hostile environment. In other words, if the school would have found out about the sexual violence had it made a proper inquiry, knowledge of the sexual violence will be imputed to the school even if the school failed to make an inquiry. A school's failure to take prompt and effective corrective action in such cases (as described in questions G-1 to G-3 and H-1 to H-3) would violate Title IX even if the student did not use the school's grievance procedures or otherwise inform the school of the sexual violence.

A-5. What are a school's basic responsibilities to address student-on-student sexual violence?

Answer: When a school knows or reasonably should know of possible sexual violence, it must take immediate and appropriate steps to investigate or otherwise determine what occurred (subject to the confidentiality provisions discussed in Section E). If an investigation reveals that sexual violence created a hostile environment, the school must then take prompt and effective steps reasonably calculated to end the sexual violence, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its

effects. But a school should not wait to take steps to protect its students until students have already been deprived of educational opportunities.

Title IX requires a school to protect the complainant and ensure his or her safety as necessary, including taking interim steps before the final outcome of any investigation.¹⁰ The school should take these steps promptly once it has notice of a sexual violence allegation and should provide the complainant with periodic updates on the status of the investigation. If the school determines that the sexual violence occurred, the school must continue to take these steps to protect the complainant and ensure his or her safety, as necessary. The school should also ensure that the complainant is aware of any available resources, such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance, and the right to report a crime to campus or local law enforcement. For additional information on interim measures, see questions G-1 to G-3.

If a school delays responding to allegations of sexual violence or responds inappropriately, the school's own inaction may subject the student to a hostile environment. If it does, the school will also be required to remedy the effects of the sexual violence that could reasonably have been prevented had the school responded promptly and appropriately. For example, if a school's ignoring of a student's complaints of sexual assault by a fellow student results in the complaining student having to remain in classes with the other student for several weeks and the complaining student's grades suffer because he or she was unable to concentrate in these classes, the school may need to permit the complaining student to retake the classes without an academic or financial penalty (in addition to any other remedies) in order to address the effects of the sexual violence.

A-6. Does Title IX cover employee-on-student sexual violence, such as sexual abuse of children?

Answer: Yes. Although this document and the DCL focus on student-on-student sexual violence, Title IX also protects students from other forms of sexual harassment (including sexual violence and sexual abuse), such as sexual harassment carried out by school employees. Sexual harassment by school employees can include unwelcome sexual advances; requests for sexual favors; and other verbal, nonverbal, or physical conduct of a sexual nature, including but not limited to sexual activity. Title IX's prohibition against

¹⁰ Throughout this document, unless otherwise noted, the term "complainant" refers to the student who allegedly experienced the sexual violence.

sexual harassment generally does not extend to legitimate nonsexual touching or other nonsexual conduct. But in some circumstances, nonsexual conduct may take on sexual connotations and rise to the level of sexual harassment. For example, a teacher repeatedly hugging and putting his or her arms around students under inappropriate circumstances could create a hostile environment. Early signs of inappropriate behavior with a child can be the key to identifying and preventing sexual abuse by school personnel.

A school's Title IX obligations regarding sexual harassment by employees can, in some instances, be greater than those described in this document and the DCL. Recipients should refer to OCR's *2001 Guidance* for further information about Title IX obligations regarding harassment of students by school employees. In addition, many state and local laws have mandatory reporting requirements for schools working with minors. Recipients should be careful to satisfy their state and local legal obligations in addition to their Title IX obligations, including training to ensure that school employees are aware of their obligations under such state and local laws and the consequences for failing to satisfy those obligations.

With respect to sexual activity in particular, OCR will always view as unwelcome and nonconsensual sexual activity between an adult school employee and an elementary school student or any student below the legal age of consent in his or her state. In cases involving a student who meets the legal age of consent in his or her state, there will still be a strong presumption that sexual activity between an adult school employee and a student is unwelcome and nonconsensual. When a school is on notice that a school employee has sexually harassed a student, it is responsible for taking prompt and effective steps reasonably calculated to end the sexual harassment, eliminate the hostile environment, prevent its recurrence, and remedy its effects. Indeed, even if a school was not on notice, the school is nonetheless responsible for remedying any effects of the sexual harassment on the student, as well as for ending the sexual harassment and preventing its recurrence, when the employee engaged in the sexual activity in the context of the employee's provision of aid, benefits, or services to students (*e.g.*, teaching, counseling, supervising, advising, or transporting students).

A school should take steps to protect its students from sexual abuse by its employees. It is therefore imperative for a school to develop policies prohibiting inappropriate conduct by school personnel and procedures for identifying and responding to such conduct. For example, this could include implementing codes of conduct, which might address what is commonly known as grooming – a desensitization strategy common in adult educator sexual misconduct. Such policies and procedures can ensure that students, parents, and

school personnel have clear guidelines on what are appropriate and inappropriate interactions between adults and students in a school setting or in school-sponsored activities. Additionally, a school should provide training for administrators, teachers, staff, parents, and age-appropriate classroom information for students to ensure that everyone understands what types of conduct are prohibited and knows how to respond when problems arise.¹¹

B. Students Protected by Title IX

B-1. Does Title IX protect all students from sexual violence?

Answer: Yes. Title IX protects all students at recipient institutions from sex discrimination, including sexual violence. Any student can experience sexual violence: from elementary to professional school students; male and female students; straight, gay, lesbian, bisexual and transgender students; part-time and full-time students; students with and without disabilities; and students of different races and national origins.

B-2. How should a school handle sexual violence complaints in which the complainant and the alleged perpetrator are members of the same sex?

Answer: A school's obligation to respond appropriately to sexual violence complaints is the same irrespective of the sex or sexes of the parties involved. Title IX protects all students from sexual violence, regardless of the sex of the alleged perpetrator or complainant, including when they are members of the same sex. A school must investigate and resolve allegations of sexual violence involving parties of the same sex using the same procedures and standards that it uses in all complaints involving sexual violence.

Title IX's sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity and OCR accepts such complaints for investigation. Similarly, the actual or perceived sexual orientation or gender identity of the parties does not change a school's obligations. Indeed, lesbian, gay, bisexual, and transgender (LGBT) youth report high rates of sexual harassment and sexual violence. A school should investigate and resolve allegations of sexual violence regarding LGBT students using the same procedures and standards that it

¹¹ For additional informational on training please see the Department of Education's Resource and Emergency Management for Schools Technical Assistance Center – Adult Sexual Misconduct in Schools: Prevention and Management Training, available at http://rem.s.ed.gov/Docs/ASM_Marketing_Flyer.pdf.

uses in all complaints involving sexual violence. The fact that incidents of sexual violence may be accompanied by anti-gay comments or be partly based on a student's actual or perceived sexual orientation does not relieve a school of its obligation under Title IX to investigate and remedy those instances of sexual violence.

If a school's policies related to sexual violence include examples of particular types of conduct that violate the school's prohibition on sexual violence, the school should consider including examples of same-sex conduct. In addition, a school should ensure that staff are capable of providing culturally competent counseling to all complainants. Thus, a school should ensure that its counselors and other staff who are responsible for receiving and responding to complaints of sexual violence, including investigators and hearing board members, receive appropriate training about working with LGBT and gender-nonconforming students and same-sex sexual violence. See questions J-1 to J-4 for additional information regarding training.

Gay-straight alliances and similar student-initiated groups can also play an important role in creating safer school environments for LGBT students. On June 14, 2011, the Department issued guidance about the rights of student-initiated groups in public secondary schools under the Equal Access Act. That guidance is available at <http://www2.ed.gov/policy/elsec/guid/secletter/110607.html>.

B-3. What issues may arise with respect to students with disabilities who experience sexual violence?

Answer: When students with disabilities experience sexual violence, federal civil rights laws other than Title IX may also be relevant to a school's responsibility to investigate and address such incidents.¹² Certain students require additional assistance and support. For example, students with intellectual disabilities may need additional help in learning about sexual violence, including a school's sexual violence education and prevention programs, what constitutes sexual violence and how students can report incidents of sexual

¹² OCR enforces two civil rights laws that prohibit disability discrimination. Section 504 of the Rehabilitation Act of 1973 (Section 504) prohibits disability discrimination by public or private entities that receive federal financial assistance, and Title II of the American with Disabilities Act of 1990 (Title II) prohibits disability discrimination by all state and local public entities, regardless of whether they receive federal funding. See 29 U.S.C. § 794 and 34 C.F.R. part 104; 42 U.S.C. § 12131 *et seq.* and 28 C.F.R. part 35. OCR and the U.S. Department of Justice (DOJ) share the responsibility of enforcing Title II in the educational context. The Department of Education's Office of Special Education Programs in the Office of Special Education and Rehabilitative Services administers Part B of the Individuals with Disabilities Education Act (IDEA). 20 U.S.C. 1400 *et seq.* and 34 C.F.R. part 300. IDEA provides financial assistance to states, and through them to local educational agencies, to assist in providing special education and related services to eligible children with disabilities ages three through twenty-one, inclusive.

violence. In addition, students with disabilities who experience sexual violence may require additional services and supports, including psychological services and counseling services. Postsecondary students who need these additional services and supports can seek assistance from the institution's disability resource office.

A student who has not been previously determined to have a disability may, as a result of experiencing sexual violence, develop a mental health-related disability that could cause the student to need special education and related services. At the elementary and secondary education level, this may trigger a school's child find obligations under IDEA and the evaluation and placement requirements under Section 504, which together require a school to evaluate a student suspected of having a disability to determine if he or she has a disability that requires special education or related aids and services.¹³

A school must also ensure that any school reporting forms, information, or training about sexual violence be provided in a manner that is accessible to students and employees with disabilities, for example, by providing electronically-accessible versions of paper forms to individuals with print disabilities, or by providing a sign language interpreter to a deaf individual attending a training. See question J-4 for more detailed information on student training.

B-4. What issues arise with respect to international students and undocumented students who experience sexual violence?

Answer: Title IX protects all students at recipient institutions in the United States regardless of national origin, immigration status, or citizenship status.¹⁴ A school should ensure that all students regardless of their immigration status, including undocumented students and international students, are aware of their rights under Title IX. A school must also ensure that any school reporting forms, information, or training about sexual violence be provided in a manner accessible to students who are English language learners. OCR recommends that a school coordinate with its international office and its undocumented student program coordinator, if applicable, to help communicate information about Title IX in languages that are accessible to these groups of students. OCR also encourages schools to provide foreign national complainants with information about the U nonimmigrant status and the T nonimmigrant status. The U nonimmigrant status is set

¹³ See 34 C.F.R. §§ 300.8; 300.111; 300.201; 300.300-300.311 (IDEA); 34 C.F.R. §§ 104.3(j) and 104.35 (Section 504). Schools must comply with applicable consent requirements with respect to evaluations. See 34 C.F.R. § 300.300.

¹⁴ OCR enforces Title VI of the Civil Rights Act of 1964, which prohibits discrimination by recipients of federal financial assistance on the basis of race, color, or national origin. 42 U.S.C. § 2000d.

aside for victims of certain crimes who have suffered substantial mental or physical abuse as a result of the crime and are helpful to law enforcement agency in the investigation or prosecution of the qualifying criminal activity.¹⁵ The T nonimmigrant status is available for victims of severe forms of human trafficking who generally comply with a law enforcement agency in the investigation or prosecution of the human trafficking and who would suffer extreme hardship involving unusual and severe harm if they were removed from the United States.¹⁶

A school should be mindful that unique issues may arise when a foreign student on a student visa experiences sexual violence. For example, certain student visas require the student to maintain a full-time course load (generally at least 12 academic credit hours per term), but a student may need to take a reduced course load while recovering from the immediate effects of the sexual violence. OCR recommends that a school take steps to ensure that international students on student visas understand that they must typically seek prior approval of the designated school official (DSO) for student visas to drop below a full-time course load. A school may also want to encourage its employees involved in handling sexual violence complaints and counseling students who have experienced sexual violence to approach the DSO on the student's behalf if the student wishes to drop below a full-time course load. OCR recommends that a school take steps to ensure that its employees who work with international students, including the school's DSO, are trained on the school's sexual violence policies and that employees involved in handling sexual violence complaints and counseling students who have experienced sexual violence are aware of the special issues that international students may encounter. See questions J-1 to J-4 for additional information regarding training.

A school should also be aware that threatening students with deportation or invoking a student's immigration status in an attempt to intimidate or deter a student from filing a Title IX complaint would violate Title IX's protections against retaliation. For more information on retaliation see question K-1.

¹⁵ For more information on the U nonimmigrant status, see <http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/questions-answers-victims-criminal-activity-u-nonimmigrant-status>.

¹⁶ For more information on the T nonimmigrant status, see <http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status>.

B-5. How should a school respond to sexual violence when the alleged perpetrator is not affiliated with the school?

Answer: The appropriate response will differ depending on the level of control the school has over the alleged perpetrator. For example, if an athlete or band member from a visiting school sexually assaults a student at the home school, the home school may not be able to discipline or take other direct action against the visiting athlete or band member. However (and subject to the confidentiality provisions discussed in Section E), it should conduct an inquiry into what occurred and should report the incident to the visiting school and encourage the visiting school to take appropriate action to prevent further sexual violence. The home school should also notify the student of any right to file a complaint with the alleged perpetrator's school or local law enforcement. The home school may also decide not to invite the visiting school back to its campus.

Even though a school's ability to take direct action against a particular perpetrator may be limited, the school must still take steps to provide appropriate remedies for the complainant and, where appropriate, the broader school population. This may include providing support services for the complainant, and issuing new policy statements making it clear that the school does not tolerate sexual violence and will respond to any reports about such incidents. For additional information on interim measures see questions G-1 to G-3.

C. Title IX Procedural Requirements

Overview

C-1. What procedures must a school have in place to prevent sexual violence and resolve complaints?

Answer: The Title IX regulations outline three key procedural requirements. Each school must:

(1) disseminate a notice of nondiscrimination (see question C-2);¹⁷

(2) designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX (see questions C-3 to C-4);¹⁸ and

¹⁷ 34 C.F.R. § 106.9.

¹⁸ *Id.* § 106.8(a).

(3) adopt and publish grievance procedures providing for the prompt and equitable resolution of student and employee sex discrimination complaints (see questions C-5 to C-6).¹⁹

These requirements apply to all forms of sex discrimination and are particularly important for preventing and effectively responding to sexual violence.

Procedural requirements under other federal laws may also apply to complaints of sexual violence, including the requirements of the Clery Act.²⁰ For additional information about the procedural requirements in the Clery Act, please see <http://www2.ed.gov/admins/lead/safety/campus.html>.

Notice of Nondiscrimination

C-2. What information must be included in a school's notice of nondiscrimination?

Answer: The notice of nondiscrimination must state that the school does not discriminate on the basis of sex in its education programs and activities, and that it is required by Title IX not to discriminate in such a manner. The notice must state that questions regarding Title IX may be referred to the school's Title IX coordinator or to OCR. The school must notify all of its students and employees of the name or title, office address, telephone number, and email address of the school's designated Title IX coordinator.²¹

Title IX Coordinator

C-3. What are a Title IX coordinator's responsibilities?

Answer: A Title IX coordinator's core responsibilities include overseeing the school's response to Title IX reports and complaints and identifying and addressing any patterns or systemic problems revealed by such reports and complaints. This means that the Title IX coordinator must have knowledge of the requirements of Title IX, of the school's own policies and procedures on sex discrimination, and of all complaints raising Title IX issues throughout the school. To accomplish this, subject to the exemption for school counseling employees discussed in question E-3, the Title IX coordinator must be informed of all

¹⁹ *Id.* § 106.8(b).

²⁰ All postsecondary institutions participating in the Higher Education Act's Title IV student financial assistance programs must comply with the Clery Act.

²¹ For more information on notices of nondiscrimination, please see OCR's Notice of Nondiscrimination (August 2010), available at <http://www.ed.gov/ocr/docs/nondisc.pdf>.

reports and complaints raising Title IX issues, even if the report or complaint was initially filed with another individual or office or if the investigation will be conducted by another individual or office. The school should ensure that the Title IX coordinator is given the training, authority, and visibility necessary to fulfill these responsibilities.

Because the Title IX coordinator must have knowledge of all Title IX reports and complaints at the school, this individual (when properly trained) is generally in the best position to evaluate a student's request for confidentiality in the context of the school's responsibility to provide a safe and nondiscriminatory environment for all students. A school may determine, however, that another individual should perform this role. For additional information on confidentiality requests, see questions E-1 to E-4. If a school relies in part on its disciplinary procedures to meet its Title IX obligations, the Title IX coordinator should review the disciplinary procedures to ensure that the procedures comply with the prompt and equitable requirements of Title IX as discussed in question C-5.

In addition to these core responsibilities, a school may decide to give its Title IX coordinator additional responsibilities, such as: providing training to students, faculty, and staff on Title IX issues; conducting Title IX investigations, including investigating facts relevant to a complaint, and determining appropriate sanctions against the perpetrator and remedies for the complainant; determining appropriate interim measures for a complainant upon learning of a report or complaint of sexual violence; and ensuring that appropriate policies and procedures are in place for working with local law enforcement and coordinating services with local victim advocacy organizations and service providers, including rape crisis centers. A school must ensure that its Title IX coordinator is appropriately trained in all areas over which he or she has responsibility. The Title IX coordinator or designee should also be available to meet with students as needed.

If a school designates more than one Title IX coordinator, the school's notice of nondiscrimination and Title IX grievance procedures should describe each coordinator's responsibilities, and one coordinator should be designated as having ultimate oversight responsibility.

C-4. Are there any employees who should not serve as the Title IX coordinator?

Answer: Title IX does not categorically preclude particular employees from serving as Title IX coordinators. However, Title IX coordinators should not have other job responsibilities that may create a conflict of interest. Because some complaints may raise issues as to whether or how well the school has met its Title IX obligations, designating

the same employee to serve both as the Title IX coordinator and the general counsel (which could include representing the school in legal claims alleging Title IX violations) poses a serious risk of a conflict of interest. Other employees whose job responsibilities may conflict with a Title IX coordinator's responsibilities include Directors of Athletics, Deans of Students, and any employee who serves on the judicial/hearing board or to whom an appeal might be made. Designating a full-time Title IX coordinator will minimize the risk of a conflict of interest.

Grievance Procedures

C-5. Under Title IX, what elements should be included in a school's procedures for responding to complaints of sexual violence?

Answer: Title IX requires that a school adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints of sex discrimination, including sexual violence. In evaluating whether a school's grievance procedures satisfy this requirement, OCR will review all aspects of a school's policies and practices, including the following elements that are critical to achieve compliance with Title IX:

- (1) notice to students, parents of elementary and secondary students, and employees of the grievance procedures, including where complaints may be filed;
- (2) application of the grievance procedures to complaints filed by students or on their behalf alleging sexual violence carried out by employees, other students, or third parties;
- (3) provisions for adequate, reliable, and impartial investigation of complaints, including the opportunity for both the complainant and alleged perpetrator to present witnesses and evidence;
- (4) designated and reasonably prompt time frames for the major stages of the complaint process (see question F-8);
- (5) written notice to the complainant and alleged perpetrator of the outcome of the complaint (see question H-3); and
- (6) assurance that the school will take steps to prevent recurrence of any sexual violence and remedy discriminatory effects on the complainant and others, if appropriate.

To ensure that students and employees have a clear understanding of what constitutes sexual violence, the potential consequences for such conduct, and how the school processes complaints, a school's Title IX grievance procedures should also explicitly include the following in writing, some of which themselves are mandatory obligations under Title IX:

- (1) a statement of the school's jurisdiction over Title IX complaints;
- (2) adequate definitions of sexual harassment (which includes sexual violence) and an explanation as to when such conduct creates a hostile environment;
- (3) reporting policies and protocols, including provisions for confidential reporting;
- (4) identification of the employee or employees responsible for evaluating requests for confidentiality;
- (5) notice that Title IX prohibits retaliation;
- (6) notice of a student's right to file a criminal complaint and a Title IX complaint simultaneously;
- (7) notice of available interim measures that may be taken to protect the student in the educational setting;
- (8) the evidentiary standard that must be used (preponderance of the evidence) (*i.e.*, more likely than not that sexual violence occurred) in resolving a complaint;
- (9) notice of potential remedies for students;
- (10) notice of potential sanctions against perpetrators; and
- (11) sources of counseling, advocacy, and support.

For more information on interim measures, see questions G-1 to G-3.

The rights established under Title IX must be interpreted consistently with any federally guaranteed due process rights. Procedures that ensure the Title IX rights of the complainant, while at the same time according any federally guaranteed due process to both parties involved, will lead to sound and supportable decisions. Of course, a school should ensure that steps to accord any due process rights do not restrict or unnecessarily delay the protections provided by Title IX to the complainant.

A school's procedures and practices will vary in detail, specificity, and components, reflecting differences in the age of its students, school size and administrative structure, state or local legal requirements (*e.g.*, mandatory reporting requirements for schools working with minors), and what it has learned from past experiences.

C-6. Is a school required to use separate grievance procedures for sexual violence complaints?

Answer: No. Under Title IX, a school may use student disciplinary procedures, general Title IX grievance procedures, sexual harassment procedures, or separate procedures to resolve sexual violence complaints. However, any procedures used for sexual violence complaints, including disciplinary procedures, must meet the Title IX requirement of affording a complainant a prompt and equitable resolution (as discussed in question C-5), including applying the preponderance of the evidence standard of review. As discussed in question C-3, the Title IX coordinator should review any process used to resolve complaints of sexual violence to ensure it complies with requirements for prompt and equitable resolution of these complaints. When using disciplinary procedures, which are often focused on the alleged perpetrator and can take considerable time, a school should be mindful of its obligation to provide interim measures to protect the complainant in the educational setting. For more information on timeframes and interim measures, see questions F-8 and G-1 to G-3.

D. Responsible Employees and Reporting²²

D-1. Which school employees are obligated to report incidents of possible sexual violence to school officials?

Answer: Under Title IX, whether an individual is obligated to report incidents of alleged sexual violence generally depends on whether the individual is a responsible employee of the school. A responsible employee must report incidents of sexual violence to the Title IX coordinator or other appropriate school designee, subject to the exemption for school counseling employees discussed in question E-3. This is because, as discussed in question A-4, a school is obligated to address sexual violence about which a responsible employee knew or should have known. As explained in question C-3, the Title IX coordinator must be informed of all reports and complaints raising Title IX issues, even if the report or

²² This document addresses only Title IX's reporting requirements. It does not address requirements under the Clery Act or other federal, state, or local laws, or an individual school's code of conduct.

complaint was initially filed with another individual or office, subject to the exemption for school counseling employees discussed in question E-3.

D-2. Who is a “responsible employee”?

Answer: According to OCR’s *2001 Guidance*, a responsible employee includes any employee: who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX coordinator or other appropriate school designee; or whom a student could reasonably believe has this authority or duty.²³

A school must make clear to all of its employees and students which staff members are responsible employees so that students can make informed decisions about whether to disclose information to those employees. A school must also inform all employees of their own reporting responsibilities and the importance of informing complainants of: the reporting obligations of responsible employees; complainants’ option to request confidentiality and available confidential advocacy, counseling, or other support services; and complainants’ right to file a Title IX complaint with the school and to report a crime to campus or local law enforcement.

Whether an employee is a responsible employee will vary depending on factors such as the age and education level of the student, the type of position held by the employee, and consideration of both formal and informal school practices and procedures. For example, while it may be reasonable for an elementary school student to believe that a custodial staff member or cafeteria worker has the authority or responsibility to address student misconduct, it is less reasonable for a college student to believe that a custodial staff member or dining hall employee has this same authority.

As noted in response to question A-4, when a responsible employee knows or reasonably should know of possible sexual violence, OCR deems a school to have notice of the sexual violence. The school must take immediate and appropriate steps to investigate or otherwise determine what occurred (subject to the confidentiality provisions discussed in Section E), and, if the school determines that sexual violence created a hostile environment, the school must then take appropriate steps to address the situation. The

²³ The Supreme Court held that a school will only be liable for money damages in a private lawsuit where there is actual notice to a school official with the authority to address the alleged discrimination and take corrective action. *Gebser v. Lago Vista Ind. Sch. Dist.*, 524 U.S. 274, 290 (1998), and *Davis*, 524 U.S. at 642. The concept of a “responsible employee” under OCR’s guidance for administrative enforcement of Title IX is broader.

school has this obligation regardless of whether the student, student's parent, or a third party files a formal complaint. For additional information on a school's responsibilities to address student-on-student sexual violence, see question A-5. For additional information on training for school employees, see questions J-1 to J-3.

D-3. What information is a responsible employee obligated to report about an incident of possible student-on-student sexual violence?

Answer: Subject to the exemption for school counseling employees discussed in question E-3, a responsible employee must report to the school's Title IX coordinator, or other appropriate school designee, all relevant details about the alleged sexual violence that the student or another person has shared and that the school will need to determine what occurred and to resolve the situation. This includes the names of the alleged perpetrator (if known), the student who experienced the alleged sexual violence, other students involved in the alleged sexual violence, as well as relevant facts, including the date, time, and location. A school must make clear to its responsible employees to whom they should report an incident of alleged sexual violence.

To ensure compliance with these reporting obligations, it is important for a school to train its responsible employees on Title IX and the school's sexual violence policies and procedures. For more information on appropriate training for school employees, see question J-1 to J-3.

D-4. What should a responsible employee tell a student who discloses an incident of sexual violence?

Answer: Before a student reveals information that he or she may wish to keep confidential, a responsible employee should make every effort to ensure that the student understands: (i) the employee's obligation to report the names of the alleged perpetrator and student involved in the alleged sexual violence, as well as relevant facts regarding the alleged incident (including the date, time, and location), to the Title IX coordinator or other appropriate school officials, (ii) the student's option to request that the school maintain his or her confidentiality, which the school (*e.g.*, Title IX coordinator) will consider, and (iii) the student's ability to share the information confidentially with counseling, advocacy, health, mental health, or sexual-assault-related services (*e.g.*, sexual assault resource centers, campus health centers, pastoral counselors, and campus mental health centers). As discussed in questions E-1 and E-2, if the student requests confidentiality, the Title IX coordinator or other appropriate school designee responsible for evaluating requests for confidentiality should make every effort to respect this request

and should evaluate the request in the context of the school's responsibility to provide a safe and nondiscriminatory environment for all students.

D-5. If a student informs a resident assistant/advisor (RA) that he or she was subjected to sexual violence by a fellow student, is the RA obligated under Title IX to report the incident to school officials?

Answer: As discussed in questions D-1 and D-2, for Title IX purposes, whether an individual is obligated under Title IX to report alleged sexual violence to the school's Title IX coordinator or other appropriate school designee generally depends on whether the individual is a responsible employee.

The duties and responsibilities of RAs vary among schools, and, therefore, a school should consider its own policies and procedures to determine whether its RAs are responsible employees who must report incidents of sexual violence to the Title IX coordinator or other appropriate school designee.²⁴ When making this determination, a school should consider if its RAs have the general authority to take action to redress misconduct or the duty to report misconduct to appropriate school officials, as well as whether students could reasonably believe that RAs have this authority or duty. A school should also consider whether it has determined and clearly informed students that RAs are generally available for confidential discussions and do not have the authority or responsibility to take action to redress any misconduct or to report any misconduct to the Title IX coordinator or other appropriate school officials. A school should pay particular attention to its RAs' obligations to report other student violations of school policy (*e.g.*, drug and alcohol violations or physical assault). If an RA is required to report other misconduct that violates school policy, then the RA would be considered a responsible employee obligated to report incidents of sexual violence that violate school policy.

If an RA is a responsible employee, the RA should make every effort to ensure that *before* the student reveals information that he or she may wish to keep confidential, the student understands the RA's reporting obligation and the student's option to request that the school maintain confidentiality. It is therefore important that schools widely disseminate policies and provide regular training clearly identifying the places where students can seek confidential support services so that students are aware of this information. The RA

²⁴ Postsecondary institutions should be aware that, regardless of whether an RA is a responsible employee under Title IX, RAs are considered "campus security authorities" under the Clery Act. A school's responsibilities in regard to crimes reported to campus security authorities are discussed in the Department's regulations on the Clery Act at 34 C.F.R. § 668.46.

should also explain to the student (again, before the student reveals information that he or she may wish to keep confidential) that, although the RA must report the names of the alleged perpetrator (if known), the student who experienced the alleged sexual violence, other students involved in the alleged sexual violence, as well as relevant facts, including the date, time, and location to the Title IX coordinator or other appropriate school designee, the school will protect the student's confidentiality to the greatest extent possible. Prior to providing information about the incident to the Title IX coordinator or other appropriate school designee, the RA should consult with the student about how to protect his or her safety and the details of what will be shared with the Title IX coordinator. The RA should explain to the student that reporting this information to the Title IX coordinator or other appropriate school designee does not necessarily mean that a formal complaint or investigation under the school's Title IX grievance procedure must be initiated if the student requests confidentiality. As discussed in questions E-1 and E-2, if the student requests confidentiality, the Title IX coordinator or other appropriate school designee responsible for evaluating requests for confidentiality should make every effort to respect this request and should evaluate the request in the context of the school's responsibility to provide a safe and nondiscriminatory environment for all students.

Regardless of whether a reporting obligation exists, all RAs should inform students of their right to file a Title IX complaint with the school and report a crime to campus or local law enforcement. If a student discloses sexual violence to an RA who is a responsible employee, the school will be deemed to have notice of the sexual violence even if the student does not file a Title IX complaint. Additionally, all RAs should provide students with information regarding on-campus resources, including victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance. RAs should also be familiar with local rape crisis centers or other off-campus resources and provide this information to students.

E. Confidentiality and a School's Obligation to Respond to Sexual Violence

E-1. How should a school respond to a student's request that his or her name not be disclosed to the alleged perpetrator or that no investigation or disciplinary action be pursued to address the alleged sexual violence?

Answer: Students, or parents of minor students, reporting incidents of sexual violence sometimes ask that the students' names not be disclosed to the alleged perpetrators or that no investigation or disciplinary action be pursued to address the alleged sexual violence. OCR strongly supports a student's interest in confidentiality in cases involving sexual violence. There are situations in which a school must override a student's request

for confidentiality in order to meet its Title IX obligations; however, these instances will be limited and the information should only be shared with individuals who are responsible for handling the school's response to incidents of sexual violence. Given the sensitive nature of reports of sexual violence, a school should ensure that the information is maintained in a secure manner. A school should be aware that disregarding requests for confidentiality can have a chilling effect and discourage other students from reporting sexual violence. In the case of minors, state mandatory reporting laws may require disclosure, but can generally be followed without disclosing information to school personnel who are not responsible for handling the school's response to incidents of sexual violence.²⁵

Even if a student does not specifically ask for confidentiality, to the extent possible, a school should only disclose information regarding alleged incidents of sexual violence to individuals who are responsible for handling the school's response. To improve trust in the process for investigating sexual violence complaints, a school should notify students of the information that will be disclosed, to whom it will be disclosed, and why. Regardless of whether a student complainant requests confidentiality, a school must take steps to protect the complainant as necessary, including taking interim measures before the final outcome of an investigation. For additional information on interim measures see questions G-1 to G-3.

For Title IX purposes, if a student requests that his or her name not be revealed to the alleged perpetrator or asks that the school not investigate or seek action against the alleged perpetrator, the school should inform the student that honoring the request may limit its ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator. The school should also explain that Title IX includes protections against retaliation, and that school officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs. This includes retaliatory actions taken by the school and school officials. When a school knows or reasonably should know of possible retaliation by other students or third parties, including threats, intimidation, coercion, or discrimination (including harassment), it must take immediate

²⁵ The school should be aware of the alleged student perpetrator's right under the Family Educational Rights and Privacy Act ("FERPA") to request to inspect and review information about the allegations if the information directly relates to the alleged student perpetrator and the information is maintained by the school as an education record. In such a case, the school must either redact the complainant's name and all identifying information before allowing the alleged perpetrator to inspect and review the sections of the complaint that relate to him or her, or must inform the alleged perpetrator of the specific information in the complaint that are about the alleged perpetrator. See 34 C.F.R. § 99.12(a) The school should also make complainants aware of this right and explain how it might affect the school's ability to maintain complete confidentiality.

and appropriate steps to investigate or otherwise determine what occurred. Title IX requires the school to protect the complainant and ensure his or her safety as necessary. See question K-1 regarding retaliation.

If the student still requests that his or her name not be disclosed to the alleged perpetrator or that the school not investigate or seek action against the alleged perpetrator, the school will need to determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students, including the student who reported the sexual violence. As discussed in question C-3, the Title IX coordinator is generally in the best position to evaluate confidentiality requests. Because schools vary widely in size and administrative structure, OCR recognizes that a school may reasonably determine that an employee other than the Title IX coordinator, such as a sexual assault response coordinator, dean, or other school official, is better suited to evaluate such requests. Addressing the needs of a student reporting sexual violence while determining an appropriate institutional response requires expertise and attention, and a school should ensure that it assigns these responsibilities to employees with the capability and training to fulfill them. For example, if a school has a sexual assault response coordinator, that person should be consulted in evaluating requests for confidentiality. The school should identify in its Title IX policies and procedures the employee or employees responsible for making such determinations.

If the school determines that it can respect the student's request not to disclose his or her identity to the alleged perpetrator, it should take all reasonable steps to respond to the complaint consistent with the request. Although a student's request to have his or her name withheld may limit the school's ability to respond fully to an individual allegation of sexual violence, other means may be available to address the sexual violence. There are steps a school can take to limit the effects of the alleged sexual violence and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the student complainant. Examples include providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; providing training and education materials for students and employees; changing and publicizing the school's policies on sexual violence; and conducting climate surveys regarding sexual violence. In instances affecting many students, an alleged perpetrator can be put on notice of allegations of harassing behavior and be counseled appropriately without revealing, even indirectly, the identity of the student complainant. A school must also take immediate action as necessary to protect the student while keeping the identity of the student confidential. These actions may include providing support services to the student and changing living arrangements or course schedules, assignments, or tests.

E-2. What factors should a school consider in weighing a student's request for confidentiality?

Answer: When weighing a student's request for confidentiality that could preclude a meaningful investigation or potential discipline of the alleged perpetrator, a school should consider a range of factors.

These factors include circumstances that suggest there is an increased risk of the alleged perpetrator committing additional acts of sexual violence or other violence (e.g., whether there have been other sexual violence complaints about the same alleged perpetrator, whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence, whether the alleged perpetrator threatened further sexual violence or other violence against the student or others, and whether the sexual violence was committed by multiple perpetrators). These factors also include circumstances that suggest there is an increased risk of future acts of sexual violence under similar circumstances (e.g., whether the student's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group). Other factors that should be considered in assessing a student's request for confidentiality include whether the sexual violence was perpetrated with a weapon; the age of the student subjected to the sexual violence; and whether the school possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

A school should take requests for confidentiality seriously, while at the same time considering its responsibility to provide a safe and nondiscriminatory environment for all students, including the student who reported the sexual violence. For example, if the school has credible information that the alleged perpetrator has committed one or more prior rapes, the balance of factors would compel the school to investigate the allegation of sexual violence, and if appropriate, pursue disciplinary action in a manner that may require disclosure of the student's identity to the alleged perpetrator. If the school determines that it must disclose a student's identity to an alleged perpetrator, it should inform the student prior to making this disclosure. In these cases, it is also especially important for schools to take whatever interim measures are necessary to protect the student and ensure the safety of other students. If a school has a sexual assault response coordinator, that person should be consulted in identifying safety risks and interim measures that are necessary to protect the student. In the event the student requests that the school inform the perpetrator that the student asked the school not to investigate or seek discipline, the school should honor this request and inform the alleged perpetrator that the school made the decision to go forward. For additional information on interim measures see questions G-1 to G-3. Any school officials responsible for

discussing safety and confidentiality with students should be trained on the effects of trauma and the appropriate methods to communicate with students subjected to sexual violence. See questions J-1 to J-3.

On the other hand, if, for example, the school has no credible information about prior sexual violence committed by the alleged perpetrator and the alleged sexual violence was not perpetrated with a weapon or accompanied by threats to repeat the sexual violence against the complainant or others or part of a larger pattern at a given location or by a particular group, the balance of factors would likely compel the school to respect the student's request for confidentiality. In this case the school should still take all reasonable steps to respond to the complaint consistent with the student's confidentiality request and determine whether interim measures are appropriate or necessary. Schools should be mindful that traumatic events such as sexual violence can result in delayed decisionmaking by a student who has experienced sexual violence. Hence, a student who initially requests confidentiality might later request that a full investigation be conducted.

E-3. What are the reporting responsibilities of school employees who provide or support the provision of counseling, advocacy, health, mental health, or sexual assault-related services to students who have experienced sexual violence?

Answer: OCR does not require campus mental-health counselors, pastoral counselors, social workers, psychologists, health center employees, or any other person with a professional license requiring confidentiality, or who is supervised by such a person, to report, without the student's consent, incidents of sexual violence to the school in a way that identifies the student. Although these employees may have responsibilities that would otherwise make them responsible employees for Title IX purposes, OCR recognizes the importance of protecting the counselor-client relationship, which often requires confidentiality to ensure that students will seek the help they need.

Professional counselors and pastoral counselors whose official responsibilities include providing mental-health counseling to members of the school community are not required by Title IX to report *any* information regarding an incident of alleged sexual violence to the Title IX coordinator or other appropriate school designee.²⁶

²⁶ The exemption from reporting obligations for pastoral and professional counselors under Title IX is consistent with the Clery Act. For additional information on reporting obligations under the Clery Act, see Office of Postsecondary Education, *Handbook for Campus Safety and Security Reporting* (2011), available at <http://www2.ed.gov/admins/lead/safety/handbook.pdf>. Similar to the Clery Act, for Title IX purposes, a pastoral counselor is a person who is associated with a religious order or denomination, is recognized by that religious

OCR recognizes that some people who provide assistance to students who experience sexual violence are not professional or pastoral counselors. They include all individuals who work or volunteer in on-campus sexual assault centers, victim advocacy offices, women's centers, or health centers ("non-professional counselors or advocates"), including front desk staff and students. OCR wants students to feel free to seek their assistance and therefore interprets Title IX to give schools the latitude not to require these individuals to report incidents of sexual violence in a way that identifies the student without the student's consent.²⁷ These non-professional counselors or advocates are valuable sources of support for students, and OCR strongly encourages schools to designate these individuals as confidential sources.

Pastoral and professional counselors and non-professional counselors or advocates should be instructed to inform students of their right to file a Title IX complaint with the school and a separate complaint with campus or local law enforcement. In addition to informing students about campus resources for counseling, medical, and academic support, these persons should also indicate that they are available to assist students in filing such complaints. They should also explain that Title IX includes protections against retaliation, and that school officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs. This includes retaliatory actions taken by the school and school officials. When a school knows or reasonably should know of possible retaliation by other students or third parties, including threats, intimidation, coercion, or discrimination (including harassment), it must take immediate and appropriate steps to investigate or otherwise determine what occurred. Title IX requires the school to protect the complainant and ensure his or her safety as necessary.

In order to identify patterns or systemic problems related to sexual violence, a school should collect aggregate data about sexual violence incidents from non-professional counselors or advocates in their on-campus sexual assault centers, women's centers, or

order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor. A professional counselor is a person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of his or her license or certification. This definition applies even to professional counselors who are not employees of the school, but are under contract to provide counseling at the school. This includes individuals who are not yet licensed or certified as a counselor, but are acting in that role under the supervision of an individual who is licensed or certified. An example is a Ph.D. counselor-trainee acting under the supervision of a professional counselor at the school.

²⁷ Postsecondary institutions should be aware that an individual who is counseling students, but who does not meet the Clery Act definition of a pastoral or professional counselor, is not exempt from being a campus security authority if he or she otherwise has significant responsibility for student and campus activities. See fn. 24.

health centers. Such individuals should report only general information about incidents of sexual violence such as the nature, date, time, and general location of the incident and should take care to avoid reporting personally identifiable information about a student. Non-professional counselors and advocates should consult with students regarding what information needs to be withheld to protect their identity.

E-4. Is a school required to investigate information regarding sexual violence incidents shared by survivors during public awareness events, such as “Take Back the Night”?

Answer: No. OCR wants students to feel free to participate in preventive education programs and access resources for survivors. Therefore, public awareness events such as “Take Back the Night” or other forums at which students disclose experiences with sexual violence are not considered notice to the school for the purpose of triggering an individual investigation unless the survivor initiates a complaint. The school should instead respond to these disclosures by reviewing sexual assault policies, creating campus-wide educational programs, and conducting climate surveys to learn more about the prevalence of sexual violence at the school. Although Title IX does not require the school to investigate particular incidents discussed at such events, the school should ensure that survivors are aware of any available resources, including counseling, health, and mental health services. To ensure that the entire school community understands their Title IX rights related to sexual violence, the school should also provide information at these events on Title IX and how to file a Title IX complaint with the school, as well as options for reporting an incident of sexual violence to campus or local law enforcement.

F. Investigations and Hearings

Overview

F-1. What elements should a school’s Title IX investigation include?

Answer: The specific steps in a school’s Title IX investigation will vary depending on the nature of the allegation, the age of the student or students involved, the size and administrative structure of the school, state or local legal requirements (including mandatory reporting requirements for schools working with minors), and what it has learned from past experiences.

For the purposes of this document the term “investigation” refers to the process the school uses to resolve sexual violence complaints. This includes the fact-finding investigation and any hearing and decision-making process the school uses to determine: (1) whether or not the conduct occurred; and, (2) if the conduct occurred, what actions

the school will take to end the sexual violence, eliminate the hostile environment, and prevent its recurrence, which may include imposing sanctions on the perpetrator and providing remedies for the complainant and broader student population.

In all cases, a school's Title IX investigation must be adequate, reliable, impartial, and prompt and include the opportunity for both parties to present witnesses and other evidence. The investigation may include a hearing to determine whether the conduct occurred, but Title IX does not necessarily require a hearing.²⁸ Furthermore, neither Title IX nor the DCL specifies who should conduct the investigation. It could be the Title IX coordinator, provided there are no conflicts of interest, but it does not have to be. All persons involved in conducting a school's Title IX investigations must have training or experience in handling complaints of sexual violence and in the school's grievance procedures. For additional information on training, see question J-3.

When investigating an incident of alleged sexual violence for Title IX purposes, to the extent possible, a school should coordinate with any other ongoing school or criminal investigations of the incident and establish appropriate fact-finding roles for each investigator. A school should also consider whether information can be shared among the investigators so that complainants are not unnecessarily required to give multiple statements about a traumatic event. If the investigation includes forensic evidence, it may be helpful for a school to consult with local or campus law enforcement or a forensic expert to ensure that the evidence is correctly interpreted by school officials. For additional information on working with campus or local law enforcement see question F-3.

If a school uses its student disciplinary procedures to meet its Title IX obligation to resolve complaints of sexual violence promptly and equitably, it should recognize that imposing sanctions against the perpetrator, without additional remedies, likely will not be sufficient to eliminate the hostile environment and prevent recurrence as required by Title IX. If a school typically processes complaints of sexual violence through its disciplinary process and that process, including any investigation and hearing, meets the Title IX requirements discussed above and enables the school to end the sexual violence, eliminate the hostile environment, and prevent its recurrence, then the school may use that process to satisfy its Title IX obligations and does not need to conduct a separate Title IX investigation. As discussed in question C-3, the Title IX coordinator should review the disciplinary process

²⁸ This answer addresses only Title IX's requirements for investigations. It does not address legal rights or requirements under the U.S. Constitution, the Clery Act, or other federal, state, or local laws.

to ensure that it: (1) complies with the prompt and equitable requirements of Title IX; (2) allows for appropriate interim measures to be taken to protect the complainant during the process; and (3) provides for remedies to the complainant and school community where appropriate. For more information about interim measures, see questions G-1 to G-3, and about remedies, see questions H-1 and H-2.

The investigation may include, but is not limited to, conducting interviews of the complainant, the alleged perpetrator, and any witnesses; reviewing law enforcement investigation documents, if applicable; reviewing student and personnel files; and gathering and examining other relevant documents or evidence. While a school has flexibility in how it structures the investigative process, for Title IX purposes, a school must give the complainant any rights that it gives to the alleged perpetrator. A balanced and fair process that provides the same opportunities to both parties will lead to sound and supportable decisions.²⁹ Specifically:

- Throughout the investigation, the parties must have an equal opportunity to present relevant witnesses and other evidence.
- The school must use a preponderance-of-the-evidence (*i.e.*, more likely than not) standard in any Title IX proceedings, including any fact-finding and hearings.
- If the school permits one party to have lawyers or other advisors at any stage of the proceedings, it must do so equally for both parties. Any school-imposed restrictions on the ability of lawyers or other advisors to speak or otherwise participate in the proceedings must also apply equally.
- If the school permits one party to submit third-party expert testimony, it must do so equally for both parties.
- If the school provides for an appeal, it must do so equally for both parties.
- Both parties must be notified, in writing, of the outcome of both the complaint and any appeal (see question H-3).

²⁹ As explained in question C-5, the parties may have certain due process rights under the U.S. Constitution.

Intersection with Criminal Investigations

F-2. What are the key differences between a school's Title IX investigation into allegations of sexual violence and a criminal investigation?

Answer: A criminal investigation is intended to determine whether an individual violated criminal law; and, if at the conclusion of the investigation, the individual is tried and found guilty, the individual may be imprisoned or subject to criminal penalties. The U.S. Constitution affords criminal defendants who face the risk of incarceration numerous protections, including, but not limited to, the right to counsel, the right to a speedy trial, the right to a jury trial, the right against self-incrimination, and the right to confrontation. In addition, government officials responsible for criminal investigations (including police and prosecutors) normally have discretion as to which complaints from the public they will investigate.

By contrast, a Title IX investigation will never result in incarceration of an individual and, therefore, the same procedural protections and legal standards are not required. Further, while a criminal investigation is initiated at the discretion of law enforcement authorities, a Title IX investigation is not discretionary; a school has a duty under Title IX to resolve complaints promptly and equitably and to provide a safe and nondiscriminatory environment for all students, free from sexual harassment and sexual violence. Because the standards for pursuing and completing criminal investigations are different from those used for Title IX investigations, the termination of a criminal investigation without an arrest or conviction does not affect the school's Title IX obligations.

Of course, criminal investigations conducted by local or campus law enforcement may be useful for fact gathering if the criminal investigation occurs within the recommended timeframe for Title IX investigations; but, even if a criminal investigation is ongoing, a school must still conduct its own Title IX investigation.

A school should notify complainants of the right to file a criminal complaint and should not dissuade a complainant from doing so either during or after the school's internal Title IX investigation. Title IX does not require a school to report alleged incidents of sexual violence to law enforcement, but a school may have reporting obligations under state, local, or other federal laws.

F-3. How should a school proceed when campus or local law enforcement agencies are conducting a criminal investigation while the school is conducting a parallel Title IX investigation?

Answer: A school should not wait for the conclusion of a criminal investigation or criminal proceeding to begin its own Title IX investigation. Although a school may need to delay temporarily the fact-finding portion of a Title IX investigation while the police are gathering evidence, it is important for a school to understand that during this brief delay in the Title IX investigation, it must take interim measures to protect the complainant in the educational setting. The school should also continue to update the parties on the status of the investigation and inform the parties when the school resumes its Title IX investigation. For additional information on interim measures see questions G-1 to G-3.

If a school delays the fact-finding portion of a Title IX investigation, the school must promptly resume and complete its fact-finding for the Title IX investigation once it learns that the police department has completed its evidence gathering stage of the criminal investigation. The school should not delay its investigation until the ultimate outcome of the criminal investigation or the filing of any charges. OCR recommends that a school work with its campus police, local law enforcement, and local prosecutor's office to learn when the evidence gathering stage of the criminal investigation is complete. A school may also want to enter into a memorandum of understanding (MOU) or other agreement with these agencies regarding the protocols and procedures for referring allegations of sexual violence, sharing information, and conducting contemporaneous investigations. Any MOU or other agreement must allow the school to meet its Title IX obligation to resolve complaints promptly and equitably, and must comply with the Family Educational Rights and Privacy Act ("FERPA") and other applicable privacy laws.

The DCL states that in one instance a prosecutor's office informed OCR that the police department's evidence gathering stage typically takes three to ten calendar days, although the delay in the school's investigation may be longer in certain instances. OCR understands that this example may not be representative and that the law enforcement agency's process often takes more than ten days. OCR recognizes that the length of time for evidence gathering by criminal investigators will vary depending on the specific circumstances of each case.

Off-Campus Conduct

F-4. Is a school required to process complaints of alleged sexual violence that occurred off campus?

Answer: Yes. Under Title IX, a school must process all complaints of sexual violence, regardless of where the conduct occurred, to determine whether the conduct occurred in the context of an education program or activity or had continuing effects on campus or in an off-campus education program or activity.

A school must determine whether the alleged off-campus sexual violence occurred in the context of an education program or activity of the school; if so, the school must treat the complaint in the same manner that it treats complaints regarding on-campus conduct. In other words, if a school determines that the alleged misconduct took place in the context of an education program or activity of the school, the fact that the alleged misconduct took place off campus does not relieve the school of its obligation to investigate the complaint as it would investigate a complaint of sexual violence that occurred on campus.

Whether the alleged misconduct occurred in this context may not always be apparent from the complaint, so a school may need to gather additional information in order to make such a determination. Off-campus education programs and activities are clearly covered and include, but are not limited to: activities that take place at houses of fraternities or sororities recognized by the school; school-sponsored field trips, including athletic team travel; and events for school clubs that occur off campus (*e.g.*, a debate team trip to another school or to a weekend competition).

Even if the misconduct did not occur in the context of an education program or activity, a school must consider the effects of the off-campus misconduct when evaluating whether there is a hostile environment on campus or in an off-campus education program or activity because students often experience the continuing effects of off-campus sexual violence while at school or in an off-campus education program or activity. The school cannot address the continuing effects of the off-campus sexual violence at school or in an off-campus education program or activity unless it processes the complaint and gathers appropriate additional information in accordance with its established procedures.

Once a school is on notice of off-campus sexual violence against a student, it must assess whether there are any continuing effects on campus or in an off-campus education program or activity that are creating or contributing to a hostile environment and, if so, address that hostile environment in the same manner in which it would address a hostile environment created by on-campus misconduct. The mere presence on campus or in an

off-campus education program or activity of the alleged perpetrator of off-campus sexual violence can have continuing effects that create a hostile environment. A school should also take steps to protect a student who alleges off-campus sexual violence from further harassment by the alleged perpetrator or his or her friends, and a school may have to take steps to protect other students from possible assault by the alleged perpetrator. In other words, the school should protect the school community in the same way it would had the sexual violence occurred on campus. Even if there are no continuing effects of the off-campus sexual violence experienced by the student on campus or in an off-campus education program or activity, the school still should handle these incidents as it would handle other off-campus incidents of misconduct or violence and consistent with any other applicable laws. For example, if a school, under its code of conduct, exercises jurisdiction over physical altercations between students that occur off campus outside of an education program or activity, it should also exercise jurisdiction over incidents of student-on-student sexual violence that occur off campus outside of an education program or activity.

Hearings³⁰

F-5. Must a school allow or require the parties to be present during an entire hearing?

Answer: If a school uses a hearing process to determine responsibility for acts of sexual violence, OCR does not require that the school allow a complainant to be present for the entire hearing; it is up to each school to make this determination. But if the school allows one party to be present for the entirety of a hearing, it must do so equally for both parties. At the same time, when requested, a school should make arrangements so that the complainant and the alleged perpetrator do not have to be present in the same room at the same time. These two objectives may be achieved by using closed circuit television or other means. Because a school has a Title IX obligation to investigate possible sexual violence, if a hearing is part of the school's Title IX investigation process, the school must not require a complainant to be present at the hearing as a prerequisite to proceed with the hearing.

³⁰ As noted in question F-1, the investigation may include a hearing to determine whether the conduct occurred, but Title IX does not necessarily require a hearing. Although Title IX does not dictate the membership of a hearing board, OCR discourages schools from allowing students to serve on hearing boards in cases involving allegations of sexual violence.

F-6. May every witness at the hearing, including the parties, be cross-examined?

Answer: OCR does not require that a school allow cross-examination of witnesses, including the parties, if they testify at the hearing. But if the school allows one party to cross-examine witnesses, it must do so equally for both parties.

OCR strongly discourages a school from allowing the parties to personally question or cross-examine each other during a hearing on alleged sexual violence. Allowing an alleged perpetrator to question a complainant directly may be traumatic or intimidating, and may perpetuate a hostile environment. A school may choose, instead, to allow the parties to submit questions to a trained third party (*e.g.*, the hearing panel) to ask the questions on their behalf. OCR recommends that the third party screen the questions submitted by the parties and only ask those it deems appropriate and relevant to the case.

F-7. May the complainant's sexual history be introduced at hearings?

Answer: Questioning about the complainant's sexual history with anyone other than the alleged perpetrator should not be permitted. Further, a school should recognize that the mere fact of a current or previous consensual dating or sexual relationship between the two parties does not itself imply consent or preclude a finding of sexual violence. The school should also ensure that hearings are conducted in a manner that does not inflict additional trauma on the complainant.

Timeframes

F-8. What stages of the investigation are included in the 60-day timeframe referenced in the DCL as the length for a typical investigation?

Answer: As noted in the DCL, the 60-calendar day timeframe for investigations is based on OCR's experience in typical cases. The 60-calendar day timeframe refers to the entire investigation process, which includes conducting the fact-finding investigation, holding a hearing or engaging in another decision-making process to determine whether the alleged sexual violence occurred and created a hostile environment, and determining what actions the school will take to eliminate the hostile environment and prevent its recurrence, including imposing sanctions against the perpetrator and providing remedies for the complainant and school community, as appropriate. Although this timeframe does not include appeals, a school should be aware that an unduly long appeals process may impact whether the school's response was prompt and equitable as required by Title IX.

OCR does not require a school to complete investigations within 60 days; rather OCR evaluates on a case-by-case basis whether the resolution of sexual violence complaints is prompt and equitable. Whether OCR considers an investigation to be prompt as required by Title IX will vary depending on the complexity of the investigation and the severity and extent of the alleged conduct. OCR recognizes that the investigation process may take longer if there is a parallel criminal investigation or if it occurs partially during school breaks. A school may need to stop an investigation during school breaks or between school years, although a school should make every effort to try to conduct an investigation during these breaks unless so doing would sacrifice witness availability or otherwise compromise the process.

Because timeframes for investigations vary and a school may need to depart from the timeframes designated in its grievance procedures, both parties should be given periodic status updates throughout the process.

G. Interim Measures

G-1. Is a school required to take any interim measures before the completion of its investigation?

Answer: Title IX requires a school to take steps to ensure equal access to its education programs and activities and protect the complainant as necessary, including taking interim measures before the final outcome of an investigation. The school should take these steps promptly once it has notice of a sexual violence allegation and should provide the complainant with periodic updates on the status of the investigation. The school should notify the complainant of his or her options to avoid contact with the alleged perpetrator and allow the complainant to change academic and extracurricular activities or his or her living, transportation, dining, and working situation as appropriate. The school should also ensure that the complainant is aware of his or her Title IX rights and any available resources, such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance, and the right to report a crime to campus or local law enforcement. If a school does not offer these services on campus, it should enter into an MOU with a local victim services provider if possible.

Even when a school has determined that it can respect a complainant's request for confidentiality and therefore may not be able to respond fully to an allegation of sexual violence and initiate formal action against an alleged perpetrator, the school must take immediate action to protect the complainant while keeping the identity of the complainant confidential. These actions may include: providing support services to the

complainant; changing living arrangements or course schedules, assignments, or tests; and providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred.

G-2. How should a school determine what interim measures to take?

Answer: The specific interim measures implemented and the process for implementing those measures will vary depending on the facts of each case. A school should consider a number of factors in determining what interim measures to take, including, for example, the specific need expressed by the complainant; the age of the students involved; the severity or pervasiveness of the allegations; any continuing effects on the complainant; whether the complainant and alleged perpetrator share the same residence hall, dining hall, class, transportation, or job location; and whether other judicial measures have been taken to protect the complainant (*e.g.*, civil protection orders).

In general, when taking interim measures, schools should minimize the burden on the complainant. For example, if the complainant and alleged perpetrator share the same class or residence hall, the school should not, as a matter of course, remove the complainant from the class or housing while allowing the alleged perpetrator to remain without carefully considering the facts of the case.

G-3. If a school provides all students with access to counseling on a fee basis, does that suffice for providing counseling as an interim measure?

Answer: No. Interim measures are determined by a school on a case-by-case basis. If a school determines that it needs to offer counseling to the complainant as part of its Title IX obligation to take steps to protect the complainant while the investigation is ongoing, it must not require the complainant to pay for this service.

H. Remedies and Notice of Outcome³¹

H-1. What remedies should a school consider in a case of student-on-student sexual violence?

Answer: Effective remedial action may include disciplinary action against the perpetrator, providing counseling for the perpetrator, remedies for the complainant and others, as well as changes to the school's overall services or policies. All services needed to remedy the hostile environment should be offered to the complainant. These remedies are separate from, and in addition to, any interim measure that may have been provided prior to the conclusion of the school's investigation. In any instance in which the complainant did not take advantage of a specific service (*e.g.*, counseling) when offered as an interim measure, the complainant should still be offered, and is still entitled to, appropriate final remedies that may include services the complainant declined as an interim measure. A refusal at the interim stage does not mean the refused service or set of services should not be offered as a remedy.

If a school uses its student disciplinary procedures to meet its Title IX obligation to resolve complaints of sexual violence promptly and equitably, it should recognize that imposing sanctions against the perpetrator, without more, likely will not be sufficient to satisfy its Title IX obligation to eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects. Additional remedies for the complainant and the school community may be necessary. If the school's student disciplinary procedure does not include a process for determining and implementing these remedies for the complainant and school community, the school will need to use another process for this purpose.

Depending on the specific nature of the problem, remedies for the complainant may include, but are not limited to:

- Providing an effective escort to ensure that the complainant can move safely between classes and activities;

³¹ As explained in question A-5, if a school delays responding to allegations of sexual violence or responds inappropriately, the school's own inaction may subject the student to be subjected to a hostile environment. In this case, in addition to the remedies discussed in this section, the school will also be required to remedy the effects of the sexual violence that could reasonably have been prevented had the school responded promptly and appropriately.

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- Ensuring the complainant and perpetrator do not share classes or extracurricular activities;
- Moving the perpetrator or complainant (if the complainant requests to be moved) to a different residence hall or, in the case of an elementary or secondary school student, to another school within the district;
- Providing comprehensive, holistic victim services including medical, counseling and academic support services, such as tutoring;
- Arranging for the complainant to have extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty; and
- Reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the sexual violence and the misconduct that may have resulted in the complainant being disciplined.³²

Remedies for the broader student population may include, but are not limited to:

- Designating an individual from the school's counseling center who is specifically trained in providing trauma-informed comprehensive services to victims of sexual violence to be on call to assist students whenever needed;
- Training or retraining school employees on the school's responsibilities to address allegations of sexual violence and how to conduct Title IX investigations;
- Developing materials on sexual violence, which should be distributed to all students;
- Conducting bystander intervention and sexual violence prevention programs with students;
- Issuing policy statements or taking other steps that clearly communicate that the school does not tolerate sexual violence and will respond to any incidents and to any student who reports such incidents;

³² For example, if the complainant was disciplined for skipping a class in which the perpetrator was enrolled, the school should review the incident to determine if the complainant skipped class to avoid contact with the perpetrator.

- Conducting, in conjunction with student leaders, a campus climate check to assess the effectiveness of efforts to ensure that the school is free from sexual violence, and using that information to inform future proactive steps that the school will take;
- Targeted training for a group of students if, for example, the sexual violence created a hostile environment in a residence hall, fraternity or sorority, or on an athletic team; and
- Developing a protocol for working with local law enforcement as discussed in question F-3.

When a school is unable to conduct a full investigation into a particular incident (*i.e.*, when it received a general report of sexual violence without any personally identifying information), it should consider remedies for the broader student population in response.

H-2. If, after an investigation, a school finds the alleged perpetrator responsible and determines that, as part of the remedies for the complainant, it must separate the complainant and perpetrator, how should the school accomplish this if both students share the same major and there are limited course options?

Answer: If there are limited sections of required courses offered at a school and both the complainant and perpetrator are required to take those classes, the school may need to make alternate arrangements in a manner that minimizes the burden on the complainant. For example, the school may allow the complainant to take the regular sections of the courses while arranging for the perpetrator to take the same courses online or through independent study.

H-3. What information must be provided to the complainant in the notice of the outcome?

Answer: Title IX requires both parties to be notified, in writing, about the outcome of both the complaint and any appeal. OCR recommends that a school provide written notice of the outcome to the complainant and the alleged perpetrator concurrently.

For Title IX purposes, a school must inform the complainant as to whether or not it found that the alleged conduct occurred, any individual remedies offered or provided to the complainant or any sanctions imposed on the perpetrator that directly relate to the complainant, and other steps the school has taken to eliminate the hostile environment, if the school finds one to exist, and prevent recurrence. The perpetrator should not be notified of the individual remedies offered or provided to the complainant.

Sanctions that directly relate to the complainant (but that may also relate to eliminating the hostile environment and preventing recurrence) include, but are not limited to, requiring that the perpetrator stay away from the complainant until both parties graduate, prohibiting the perpetrator from attending school for a period of time, or transferring the perpetrator to another residence hall, other classes, or another school. Additional steps the school has taken to eliminate the hostile environment may include counseling and academic support services for the complainant and other affected students. Additional steps the school has taken to prevent recurrence may include sexual violence training for faculty and staff, revisions to the school's policies on sexual violence, and campus climate surveys. Further discussion of appropriate remedies is included in question H-1.

In addition to the Title IX requirements described above, the Clery Act requires, and FERPA permits, postsecondary institutions to inform the complainant of the institution's final determination and any disciplinary sanctions imposed on the perpetrator in sexual violence cases (as opposed to all harassment and misconduct covered by Title IX) not just those sanctions that directly relate to the complainant.³³

I. Appeals

I-1. What are the requirements for an appeals process?

Answer: While Title IX does not require that a school provide an appeals process, OCR does recommend that the school do so where procedural error or previously unavailable relevant evidence could significantly impact the outcome of a case or where a sanction is substantially disproportionate to the findings. If a school chooses to provide for an appeal of the findings or remedy or both, it must do so equally for both parties. The specific design of the appeals process is up to the school, as long as the entire grievance process, including any appeals, provides prompt and equitable resolutions of sexual violence complaints, and the school takes steps to protect the complainant in the educational setting during the process. Any individual or body handling appeals should be trained in the dynamics of and trauma associated with sexual violence.

If a school chooses to offer an appeals process it has flexibility to determine the type of review it will apply to appeals, but the type of review the school applies must be the same regardless of which party files the appeal.

³³ 20 U.S.C. § 1092(f) and 20 U.S.C. § 1232g(b)(6)(A).

- I-2. Must an appeal be available to a complainant who receives a favorable finding but does not believe a sanction that directly relates to him or her was sufficient?**

Answer: The appeals process must be equal for both parties. For example, if a school allows a perpetrator to appeal a suspension on the grounds that it is too severe, the school must also allow a complainant to appeal a suspension on the grounds that it was not severe enough. See question H-3 for more information on what must be provided to the complainant in the notice of the outcome.

J. Title IX Training, Education and Prevention³⁴

- J-1. What type of training on Title IX and sexual violence should a school provide to its employees?**

Answer: A school needs to ensure that responsible employees with the authority to address sexual violence know how to respond appropriately to reports of sexual violence, that other responsible employees know that they are obligated to report sexual violence to appropriate school officials, and that all other employees understand how to respond to reports of sexual violence. A school should ensure that professional counselors, pastoral counselors, and non-professional counselors or advocates also understand the extent to which they may keep a report confidential. A school should provide training to all employees likely to witness or receive reports of sexual violence, including teachers, professors, school law enforcement unit employees, school administrators, school counselors, general counsels, athletic coaches, health personnel, and resident advisors. Training for employees should include practical information about how to prevent and identify sexual violence, including same-sex sexual violence; the behaviors that may lead to and result in sexual violence; the attitudes of bystanders that may allow conduct to continue; the potential for revictimization by responders and its effect on students; appropriate methods for responding to a student who may have experienced sexual violence, including the use of nonjudgmental language; the impact of trauma on victims; and, as applicable, the person(s) to whom such misconduct must be reported. The training should also explain responsible employees' reporting obligation, including what should be included in a report and any consequences for the failure to report and the procedure for responding to students' requests for confidentiality, as well as provide the contact

³⁴ As explained earlier, although this document focuses on sexual violence, the legal principles apply to other forms of sexual harassment. Schools should ensure that any training they provide on Title IX and sexual violence also covers other forms of sexual harassment. Postsecondary institutions should also be aware of training requirements imposed under the Clery Act.

information for the school's Title IX coordinator. A school also should train responsible employees to inform students of: the reporting obligations of responsible employees; students' option to request confidentiality and available confidential advocacy, counseling, or other support services; and their right to file a Title IX complaint with the school and to report a crime to campus or local law enforcement. For additional information on the reporting obligations of responsible employees and others see questions D-1 to D-5.

There is no minimum number of hours required for Title IX and sexual violence training at every school, but this training should be provided on a regular basis. Each school should determine based on its particular circumstances how such training should be conducted, who has the relevant expertise required to conduct the training, and who should receive the training to ensure that the training adequately prepares employees, particularly responsible employees, to fulfill their duties under Title IX. A school should also have methods for verifying that the training was effective.

J-2. How should a school train responsible employees to report incidents of possible sexual harassment or sexual violence?

Answer: Title IX requires a school to take prompt and effective steps reasonably calculated to end sexual harassment and sexual violence that creates a hostile environment (*i.e.*, conduct that is sufficiently serious as to limit or deny a student's ability to participate in or benefit from the school's educational program and activity). But a school should not wait to take steps to protect its students until students have already been deprived of educational opportunities.

OCR therefore recommends that a school train responsible employees to report to the Title IX coordinator or other appropriate school official any incidents of sexual harassment or sexual violence that may violate the school's code of conduct or may create or contribute to the creation of a hostile environment. The school can then take steps to investigate and prevent any harassment or violence from recurring or escalating, as appropriate. For example, the school may separate the complainant and alleged perpetrator or conduct sexual harassment and sexual violence training for the school's students and employees. Responsible employees should understand that they do not need to determine whether the alleged sexual harassment or sexual violence actually occurred or that a hostile environment has been created before reporting an incident to the school's Title IX coordinator. Because the Title IX coordinator should have in-depth knowledge of Title IX and Title IX complaints at the school, he or she is likely to be in a better position than are other employees to evaluate whether an incident of sexual

harassment or sexual violence creates a hostile environment and how the school should respond. There may also be situations in which individual incidents of sexual harassment do not, by themselves, create a hostile environment; however when considered together, those incidents may create a hostile environment.

J-3. What type of training should a school provide to employees who are involved in implementing the school's grievance procedures?

Answer: All persons involved in implementing a school's grievance procedures (*e.g.*, Title IX coordinators, others who receive complaints, investigators, and adjudicators) must have training or experience in handling sexual violence complaints, and in the operation of the school's grievance procedures. The training should include information on working with and interviewing persons subjected to sexual violence; information on particular types of conduct that would constitute sexual violence, including same-sex sexual violence; the proper standard of review for sexual violence complaints (preponderance of the evidence); information on consent and the role drugs or alcohol can play in the ability to consent; the importance of accountability for individuals found to have committed sexual violence; the need for remedial actions for the perpetrator, complainant, and school community; how to determine credibility; how to evaluate evidence and weigh it in an impartial manner; how to conduct investigations; confidentiality; the effects of trauma, including neurobiological change; and cultural awareness training regarding how sexual violence may impact students differently depending on their cultural backgrounds.

In rare circumstances, employees involved in implementing a school's grievance procedures may be able to demonstrate that prior training and experience has provided them with competency in the areas covered in the school's training. For example, the combination of effective prior training and experience investigating complaints of sexual violence, together with training on the school's current grievance procedures may be sufficient preparation for an employee to resolve Title IX complaints consistent with the school's grievance procedures. In-depth knowledge regarding Title IX and sexual violence is particularly helpful. Because laws and school policies and procedures may change, the only way to ensure that all employees involved in implementing the school's grievance procedures have the requisite training or experience is for the school to provide regular training to all individuals involved in implementing the school's Title IX grievance procedures even if such individuals also have prior relevant experience.

J-4. What type of training on sexual violence should a school provide to its students?

Answer: To ensure that students understand their rights under Title IX, a school should provide age-appropriate training to its students regarding Title IX and sexual violence. At the elementary and secondary school level, schools should consider whether sexual violence training should also be offered to parents, particularly training on the school's process for handling complaints of sexual violence. Training may be provided separately or as part of the school's broader training on sex discrimination and sexual harassment. However, sexual violence is a unique topic that should not be assumed to be covered adequately in other educational programming or training provided to students. The school may want to include this training in its orientation programs for new students; training for student athletes and members of student organizations; and back-to-school nights. A school should consider educational methods that are most likely to help students retain information when designing its training, including repeating the training at regular intervals. OCR recommends that, at a minimum, the following topics (as appropriate) be covered in this training:

- Title IX and what constitutes sexual violence, including same-sex sexual violence, under the school's policies;
- the school's definition of consent applicable to sexual conduct, including examples;
- how the school analyzes whether conduct was unwelcome under Title IX;
- how the school analyzes whether unwelcome sexual conduct creates a hostile environment;
- reporting options, including formal reporting and confidential disclosure options and any timeframes set by the school for reporting;
- the school's grievance procedures used to process sexual violence complaints;
- disciplinary code provisions relating to sexual violence and the consequences of violating those provisions;
- effects of trauma, including neurobiological changes;
- the role alcohol and drugs often play in sexual violence incidents, including the deliberate use of alcohol and/or other drugs to perpetrate sexual violence;
- strategies and skills for bystanders to intervene to prevent possible sexual violence;
- how to report sexual violence to campus or local law enforcement and the ability to pursue law enforcement proceedings simultaneously with a Title IX grievance; and
- Title IX's protections against retaliation.

The training should also encourage students to report incidents of sexual violence. The training should explain that students (and their parents or friends) do not need to determine whether incidents of sexual violence or other sexual harassment created a

hostile environment before reporting the incident. A school also should be aware that persons may be deterred from reporting incidents if, for example, violations of school or campus rules regarding alcohol or drugs were involved. As a result, a school should review its disciplinary policy to ensure it does not have a chilling effect on students' reporting of sexual violence offenses or participating as witnesses. OCR recommends that a school inform students that the school's primary concern is student safety, and that use of alcohol or drugs never makes the survivor at fault for sexual violence.

It is also important for a school to educate students about the persons on campus to whom they can confidentially report incidents of sexual violence. A school's sexual violence education and prevention program should clearly identify the offices or individuals with whom students can speak confidentially and the offices or individuals who can provide resources such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance. It should also identify the school's responsible employees and explain that if students report incidents to responsible employees (except as noted in question E-3) these employees are required to report the incident to the Title IX coordinator or other appropriate official. This reporting includes the names of the alleged perpetrator and student involved in the sexual violence, as well as relevant facts including the date, time, and location, although efforts should be made to comply with requests for confidentiality from the complainant. For more detailed information regarding reporting and responsible employees and confidentiality, see questions D-1 to D-5 and E-1 to E-4.

K. Retaliation

K-1. Does Title IX protect against retaliation?

Answer: Yes. The Federal civil rights laws, including Title IX, make it unlawful to retaliate against an individual for the purpose of interfering with any right or privilege secured by these laws. This means that if an individual brings concerns about possible civil rights problems to a school's attention, including publicly opposing sexual violence or filing a sexual violence complaint with the school or any State or Federal agency, it is unlawful for the school to retaliate against that individual for doing so. It is also unlawful to retaliate against an individual because he or she testified, or participated in any manner, in an OCR or school's investigation or proceeding. Therefore, if a student, parent, teacher, coach, or other individual complains formally or informally about sexual violence or participates in an OCR or school's investigation or proceedings related to sexual violence, the school is prohibited from retaliating (including intimidating, threatening, coercing, or in any way

discriminating against the individual) because of the individual's complaint or participation.

A school should take steps to prevent retaliation against a student who filed a complaint either on his or her own behalf or on behalf of another student, or against those who provided information as witnesses.

Schools should be aware that complaints of sexual violence may be followed by retaliation against the complainant or witnesses by the alleged perpetrator or his or her associates. When a school knows or reasonably should know of possible retaliation by other students or third parties, it must take immediate and appropriate steps to investigate or otherwise determine what occurred. Title IX requires the school to protect the complainant and witnesses and ensure their safety as necessary. At a minimum, this includes making sure that the complainant and his or her parents, if the complainant is in elementary or secondary school, and witnesses know how to report retaliation by school officials, other students, or third parties by making follow-up inquiries to see if there have been any new incidents or acts of retaliation, and by responding promptly and appropriately to address continuing or new problems. A school should also tell complainants and witnesses that Title IX prohibits retaliation, and that school officials will not only take steps to prevent retaliation, but will also take strong responsive action if it occurs.

L. First Amendment

L-1. How should a school handle its obligation to respond to sexual harassment and sexual violence while still respecting free-speech rights guaranteed by the Constitution?

Answer: The DCL on sexual violence did not expressly address First Amendment issues because it focuses on unlawful physical sexual violence, which is not speech or expression protected by the First Amendment.

However, OCR's previous guidance on the First Amendment, including the 2001 Guidance, OCR's July 28, 2003, Dear Colleague Letter on the First Amendment,³⁵ and OCR's October 26, 2010, Dear Colleague Letter on harassment and bullying,³⁶ remain fully in effect. OCR has made it clear that the laws and regulations it enforces protect students from prohibited discrimination and do not restrict the exercise of any expressive activities or speech protected under the U.S. Constitution. Therefore, when a school works to prevent

³⁵ Available at <http://www.ed.gov/ocr/firstamend.html>.

³⁶ Available at <http://www.ed.gov/ocr/letters/colleague-201010.html>.

and redress discrimination, it must respect the free-speech rights of students, faculty, and other speakers.

Title IX protects students from sex discrimination; it does not regulate the content of speech. OCR recognizes that the offensiveness of a particular expression as perceived by some students, standing alone, is not a legally sufficient basis to establish a hostile environment under Title IX. Title IX also does not require, prohibit, or abridge the use of particular textbooks or curricular materials.³⁷

M. The Clery Act and the Violence Against Women Reauthorization Act of 2013

M-1. How does the Clery Act affect the Title IX obligations of institutions of higher education that participate in the federal student financial aid programs?

Answer: Institutions of higher education that participate in the federal student financial aid programs are subject to the requirements of the Clery Act as well as Title IX. The Clery Act requires institutions of higher education to provide current and prospective students and employees, the public, and the Department with crime statistics and information about campus crime prevention programs and policies. The Clery Act requirements apply to many crimes other than those addressed by Title IX. For those areas in which the Clery Act and Title IX both apply, the institution must comply with both laws. For additional information about the Clery Act and its regulations, please see <http://www2.ed.gov/admins/lead/safety/campus.html>.

M-2. Were a school's obligations under Title IX and the DCL altered in any way by the Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, including Section 304 of that Act, which amends the Clery Act?

Answer: No. The Violence Against Women Reauthorization Act has no effect on a school's obligations under Title IX or the DCL. The Violence Against Women Reauthorization Act amended the Violence Against Women Act and the Clery Act, which are separate statutes. Nothing in Section 304 or any other part of the Violence Against Women Reauthorization Act relieves a school of its obligation to comply with the requirements of Title IX, including those set forth in these Questions and Answers, the 2011 DCL, and the *2001 Guidance*. For additional information about the Department's negotiated rulemaking related to the Violence Against Women Reauthorization Act please see <http://www2.ed.gov/policy/highered/reg/hearulemaking/2012/vawa.html>.

³⁷ 34 C.F.R. § 106.42.

N. Further Federal Guidance

N-1. Whom should I contact if I have additional questions about the DCL or OCR's other Title IX guidance?

Answer: Anyone who has questions regarding this guidance, or Title IX should contact the OCR regional office that serves his or her state. Contact information for OCR regional offices can be found on OCR's webpage at <https://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>. If you wish to file a complaint of discrimination with OCR, you may use the online complaint form available at <http://www.ed.gov/ocr/complaintintro.html> or send a letter to the OCR enforcement office responsible for the state in which the school is located. You may also email general questions to OCR at ocr@ed.gov.

N-2. Are there other resources available to assist a school in complying with Title IX and preventing and responding to sexual violence?

Answer: Yes. OCR's policy guidance on Title IX is available on OCR's webpage at <http://www.ed.gov/ocr/publications.html#TitleIX>. In addition to the April 4, 2011, Dear Colleague Letter, OCR has issued the following resources that further discuss a school's obligation to respond to allegations of sexual harassment and sexual violence:

- Dear Colleague Letter: Harassment and Bullying (October 26, 2010),
<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>
- *Sexual Harassment: It's Not Academic* (Revised September 2008),
<http://www2.ed.gov/about/offices/list/ocr/docs/ocrshpam.pdf>
- *Revised Sexual Harassment Guidance: Harassment of Students by Employees, Other Students, or Third Parties* (January 19, 2001),
<http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>

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In addition to guidance from OCR, a school may also find resources from the Departments of Education and Justice helpful in preventing and responding to sexual violence:

- Department of Education’s Letter to Chief State School Officers on Teen Dating Violence Awareness and Prevention (February 28, 2013)
<https://www2.ed.gov/policy/gen/guid/secletter/130228.html>
- Department of Education’s National Center on Safe Supportive Learning Environments
<http://safesupportivelearning.ed.gov/>
- Department of Justice, Office on Violence Against Women
<http://www.ovw.usdoj.gov/>

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SUBJECT

Board Policy IV.B. State Department of Education – First Reading

APPLICABLE STATUTE, RULE, OR POLICY

Idaho State Board of Education Governing Policies and Procedures IV.B. State Department of Education

BACKGROUND/DISCUSSION

The Department of Education (Department) facilitates the process for review of various minimum subject matter content standards based on long established cycles. Following the review process, the standards are brought forward to the Board with recommended amendments for consideration. Following Board approval of the amendments the standards, as applicable, are then incorporated into administrative rule and move through the rulemaking process. The rulemaking process includes various stages of public comment and additional Board approvals.

The current process for review of the Idaho Content Standards consists of the following:

- Department staff pull together a group of Idaho educators applicable to the content area.
- The group reviews the standards and makes an initial determination that a recommendation for amendment(s) should be forwarded to the Board for consideration.
- Once it is determined that amendments to the standard is necessary, several standard writing meetings are conducted in which the group comes to consensus on the proposed amendments. Depending on the subject area additional meetings may be conducted to provide for broader input, or additional input may be solicited through the Departments website. All input is considered by the group prior to finalizing the recommendation.
- The amendments are then presented to the Board for consideration.

Standards that are incorporated into administrative rule by reference are then promulgated through the rule making process which provides for an additional opportunity for public input, following the adoption of the standards by the Board, during the proposed rule public comment period.

During the 2016 legislative session the Board office received input from legislators that they would like to see this process formalized by the Board and requested the Board consider including a required step for broader public input to the review committees recommendations prior to those recommendations being considered by the Board.

The proposed amendments to the policy removes outdated sections of the policy as well as sections that have been moved to Idaho code or administrative rule. The new subsections outline the current standards adoption process with the

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addition of the public comment requirement prior to Board considerations or the recommendations, and a reporting requirement would allow Board staff to monitor when portions of the standards were reviewed and no recommendations for amendments were made.

IMPACT

The proposed policy will formally establish the process that is used for reviewing elementary and secondary standards that are approved by the Board.

ATTACHMENTS

Attachment 1 – Board Policy, IV.B. Department of Education, 1st Reading Page 3

STAFF COMMENTS AND RECOMMENDATIONS

The proposed policy removes outdated sections of policy that are now contained in either Idaho code or administrative rule and formally establishes the standards review process.

Board staff recommends approval.

BOARD ACTION

I move to approve the first reading of Board Policy IV.B. State Department of Education as submitted in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

Idaho State Board of Education
GOVERNING POLICIES AND PROCEDURES

SECTION: IV. ORGANIZATION SPECIFIC POLICIES AND PROCEDURES

Subsection: B. State Department of Education

~~December 2005~~ June 2016

1. Purpose

The State Department of Education is established by Section 33-125, Idaho Code, as an executive agency of the State Board of Education for elementary and secondary school matters.

2. State Superintendent of Public Instruction

The State Superintendent of Public Instruction is an elected public official, serves as the executive secretary of the Board, and is the chief executive officer of the State Department of Education. The State Superintendent of Public Instruction (hereinafter known as the "superintendent") is responsible for carrying out the policies, procedures, and duties authorized by applicable state and federal statutes and the policies and procedures of the Board for the elementary and secondary schools in Idaho.

3. Department Organization

The State Department of Education (hereinafter known as the "department") is organized in a manner as determined by the Board acting on recommendations by the superintendent.

4. General Scope of Department Responsibilities

The department is responsible for public elementary and secondary school matters as provided by Title 33, Idaho Code, or as determined by the State Board of Education.

5. Consultant and Advisory Services

The Board allows payments to be made to staff members of the department for consultative services to agencies or organizations other than the public elementary and secondary schools. Such payments may be in addition to the certified salary of the employee and be made during the periods for which any regular salary is paid, as determined by the superintendent. Consultative services must not interfere with the time or duties of the staff member for the department. Requests to undertake consultative services must be submitted to the superintendent or his or her designee and to the Board for prior approval.

6. Policy Manual for Idaho Public Schools

The superintendent or his or her designee is responsible for the development, establishment, maintenance, and dissemination of the *State Board of Education Rules and Regulations for Public Schools K-12* as approved by the Board. The

procedures used to establish, amend, or otherwise modify the Policy Manual will be in accordance with [Board policy and](#) applicable state laws.

7. Internal Policies and Procedures

The superintendent, as the chief executive officer, may establish such additional policies and procedures for the internal management of the department as are necessary [and in alignment with the Board policies, Administrative Code, and Idaho code](#).

8. Basic Educational Technology Standards for Continuing Educators

The proliferation of technology in our daily lives makes it essential that all students are provided an opportunity to become technologically literate. The State Board of Education has established a statewide goal that teachers and administrators be trained in the use of technology for education. This policy was created as a plan of action which provides recognition, encouragement and documentation of demonstrated competencies for educators and school districts by certificates of achievement and by school accreditation.

~~a. Requirements~~

~~By July 1, 1999, the Department of Education will develop and implement a system of accreditation standards and accountability and require reporting on certificated personnel demonstrating mastery of the required basic technology standards.~~

~~By July 1, 1999, all Idaho school districts will have in place a plan that ensures that at least 90% of certificated personnel will meet the technology standards for the school by the completion of the school year 2000-2001. After 2001, administrators, through their respective school districts, will be required to provide specific justification for any certificated personnel who have not met the technology standards.~~

~~By July 1, 1999, each public school must have educational technology competencies as part of the annual professional development plan for each certificated personnel employed by the district. The plan will support successful mastery of the required basic technology standards by the completion of the school year 2000-2001.~~

~~b. Procedures~~

~~Certificated personnel and school districts will be able to use the Idaho Technology Competency Exam, the Idaho Technology Portfolio Assessment, or another process which meets the approval of the State Board of Education to demonstrate the required basic technology competencies.~~

~~c. Technology Standards and Assessments~~

~~The standards will be based on the International Society for Technology in Education (ISTE) foundational standards. The assessments will include the Idaho Technology Competency Exam, the Idaho Technology Portfolio Assessment or another process which meets the approval of the State Board of Education. The approval process of an alternative assessment is as follows:~~

~~The proposed assessment will be presented to the Board staff who will collaborate with the state approved Colleges of Education to review the proposed assessment for validation and reliability to ensure that what is being required demonstrates mastery of the competencies of ISTE.~~

~~A recommendation will be made by the Board's staff to the Board based on the review.~~

da. Accountability and Recognition

All state approved teacher education institutions or their trained designees (i.e., state department employees, district employees or community college faculty) will issue a State Certificate of Educational Technology Competency to those certificated personnel who have documented mastery of the required basic technology standards.

The State Department of Education will issue annually a State Certificate of a Technology School of Excellence to those schools documenting that at least 90% of the certificated staff have earned the State Certificate of Educational Technology Competency.

The State Department of Education will provide the State Board of Education an annual report on certificated personnel demonstrating mastery of the required basic technology standards by state, by district, and by school beginning with a baseline skill inventory that identifies the number of certificated personnel who have already demonstrated competency by the approved assessments. The results of this baseline will be available for Board review at the September 1998 Board meeting. Reports will continue annually on September 1999 through September of 2001 providing current data from the 1998-1999 school year and continuing through the 2000-2001 school year. The baseline and each annual report will include the following information by state, by district, and by school:

- i. Total certificated personnel
- ii. Total certificated personnel demonstrating technology competency
- iii. Total certificated administrative personnel
- iv. Total certificated administrative personnel demonstrating technology competency
- v. Total certificated instructional personnel
- vi. Total certificated instructional personnel demonstrating technology competency.

Information from the annual reports may be used to inform the citizens of Idaho of the relative standing of each school and each school district. The information

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will also be used to give proper recognition to schools making excellent progress towards or achieving the Board's goal. The Board staff will evaluate the policy annually.

9. ~~Reading Assessment Results~~

~~During the pilot or phase-in implementation period of the Reading Initiative assessments for grades K-3, based on the standards of the Idaho Comprehensive Literacy Plan required by Idaho Code Section 33-1614, the Department of Education is directed to carry out the following.~~

- ~~a. Each school district must notify parents of children who score "Below Grade Level Proficiency" on either the fall or winter assessment. The notice will be sent each year and must include appropriate information about the district's remediation plans including:
 - ~~i. Information about participation in a State Board approved extended time tutorial program. The program may be offered as an extended day, extended year, inter-session, or other configuration appropriate to the district;~~
 - ~~ii. Notice that the school district may in some instances recommend in-grade retention for a student; and~~
 - ~~iii. Notice of the development of a remediation plan individualized for the student who is promoted from third to fourth grade even though he or she may still be considered "Below Grade Level Proficiency" in reading.~~~~
- ~~b. Each school district must gather data to report by school and district to the Department of Education in such a way that it can be disaggregated to examine the progress of students by categories recognized as needing extra funding for success. The categories include limited English proficient (LEP), migrant, Hispanic, Native American, and those identified through criteria established by special education and Title I.~~
- ~~c. School districts having 25 percent or more of their K-3 student population assessed as "Below Grade Level Proficiency" by total average skill points on the Idaho Reading Indicator for any or all such grades will apply to the State Department of Education for technical assistance to develop a plan to improve reading performance in the areas of deficiency. Such applications will occur within 30 days of such notice and will be reported on forms provided by the State Department of Education.~~

9. Standards Approval

While maintaining a balance between the local control of school districts and the Idaho constitutional requirement for a uniform and thorough system of public education, the State Board of Education sets minimum standards to provide the framework through which our public school then provide educational opportunities to Idaho students. Prior to any standards being brought forward to the Board the

applicable stakeholders and the public shall be provided with an opportunity to provide feedback. All standards being brought to the Board for consideration shall include the standards themselves, a description of how feedback was solicited, and a summary of the feedback that was received. Amendments to existing standards shall also include a redlined version of the standards showing all amendments.

a. Content Standards

The Idaho Content Standards articulate the minimum knowledge a student is expected to know and be able to use within a content (subject) area at specific grade levels. Content standards are reviewed and updated on a rotating basis in relation to the curricular materials adoption schedule, but may be updated more frequently if an area is identified as needing to be updated in advance of that schedule. Content standards review will be scheduled such that the content standard is reviewed in the year prior to the scheduled curricular materials review. At a minimum all content areas, including those without corresponding curricular materials, will be reviewed every six (6) years and notification will be made to the Office of the State Board of Education of the review and if the review will result in amendments to the standard or if it was determined that no amendments are necessary for the review cycle. Career Technical Education (CTE) content standard reviews will be facilitated by the Division of Career Technical Education and must meet the same review requirements as academic content standards.

The content standards review process will include at a minimum:

- i. A review committee consisting of Idaho educators with experience in the applicable content area. The committee shall be made up of elementary and secondary instructional staff and at least one postsecondary faculty member from a four-year institution and at least one from a two-year institution, at least one public school administrator, and at least one parent of school aged children or representative of an organization representing parents with school aged children. Instructional staff and postsecondary faculty members must have experience providing instruction in the applicable content area. Additional members may be included at the discretion of the Department. To the extent possible, representatives shall be chosen from a combination of large and small schools or districts and provide for regional representation.
- ii. The review committee will make an initial determination regarding the need to update the standards.
- iii. Based on the review, the committee shall meet to develop initial recommendations for the creation of new content standards or amendments to the existing content standards. The Department will provide multiple opportunities for public input on the draft recommendations including but not limited to the Department website and processes that allow for individuals in each region of the state to participate.

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iv. Drafts of the recommended amendments will be made available to the public for comment for a period of not less than 20 days. At the close of the comment period the committee will finalize recommendations for Board consideration.

b. Standards for the Initial Certification of Professional School Personnel

The Standards for the Initial Certification of Professional School Personnel set the minimum standards certificated school personnel must meet in each certification and endorsement area to be eligible for certification or to receive subject area endorsements. Teacher preparation programs must be in alignment with these standards to be considered for approval or re-approval.

The standards are reviewed and updated based on a five (5) year cycle, where 20% of the standards are reviewed each year. Standards may be identified for review in advance of the five (5) year cycle, however, all standards must be reviewed every five (5) years. Reviews of CTE educator standards will be facilitated by the Division of Career Technical Education. The Professional Standards Commission (PSC) is responsible for reviewing and making recommendations to the Board on amendments or additions to the Standards for the Initial Certification of Professional School Personnel. The PSC will report annually to the Office of the State Board of Education the standards reviewed during the previous year and if that review resulted in recommendations for amendments or if no amendments were recommended during the review cycle.

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IDAHO STATE UNIVERSITY

SUBJECT

Approval to change the name of Division of Health Sciences at Idaho State University to Kasiska Division of Health Sciences at Idaho State University.

APPLICABLE STATUTE, RULE, OR POLICY

Idaho State Board of Education Governing Policies & Procedures,
Section: I.K. Naming/Memorializing Building and Facilities

BACKGROUND/DISCUSSION

The Kasiska Family Legacy extends deep in the history of Idaho State University. It began with William F. Kasiska, who arrived in Pocatello, ID in 1880 with his wife, Mary. An astute businessman, William Kasiska invested in land, operated banks and ranches and served as Mayor of Pocatello. In 1999, the Kasiska Family Foundation agreed to participate in Idaho State University's first ever (and only to this point) Capital Campaign, "Creating Legacies," and completed annual gifts of \$780,000 annually through 2009. This gift established the Kasiska College of Health Professions with total giving just over \$16,000,000. Since that time, the Kasiska Family Foundation has reached a total of \$17,046,636 in gifts to award scholarships and purchase equipment for the health related professions programs at Idaho State University (ISU), making it the single largest private donor in the history of the ISU Foundation. To date, 6,700 students have received Kasiska Scholarships, many of them now practicing health care professionals throughout Idaho, as well as around the world.

IMPACT

In 2010 all units at Idaho State University which align with the institution's medical mission were realigned to create the Division of Health Sciences, encompassing not only the now Kasiska School of Health Professions, but the School of Nursing, the College of Pharmacy, the School of Rehabilitation and Communication Sciences, the Office of Medical and Oral Health, the state of the art Meridian Health Science Center and fully operational medical clinics. Renaming the Division of Health Sciences is intended to extend the Kasiska Legacy to this Division, making it from this point forward the Kasiska Division of Health Sciences at Idaho State University.

ATTACHMENTS

Attachment 1 – Memorandum – Approval from President Vailas
Attachment 2 – Memorandum of Understanding

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Page 5

STAFF COMMENTS AND RECOMMENDATIONS

Pursuant to Board policy I.K.1.b a building, facility or administrative unit may be named after individuals who were not former employees of the higher education system under the following conditions:

1. When deemed appropriate, a facility, building, or administrative unit may be given a nonfunctional name intended to honor and memorialize a specific individual who has made a distinguished contribution to the University.
2. Name for an individual in recognition of a gift.
 - a) No commitment for naming shall be made to a prospective donor of a gift prior to Board approval of the proposed name.
 - b) In reviewing requests for approval to name a facility, building, or administrative unit for a donor, the Board shall consider:
 - i) The nature of the proposed gift and its significance to the institution;
 - ii) The eminence of the individual whose name is proposed; and
 - iii) The individual's relationship to the institution.

Board policy contemplates naming of facilities, buildings, or administrative units based on an individual's past contributions to the institution and not in exchange for a prospective contribution to the institution. The material provided includes a memorandum of understanding that would indicate the consideration of naming is a condition of a potential contribution and not based on the past contributions made to the university.

BOARD ACTION

I move to approve the request by Idaho State University to change the name of Division of Health Sciences at Idaho State University to Kasiska Division of Health Sciences at Idaho State University.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

Idaho State UNIVERSITY

Vice President for Finance and Administration
921 South 8th Avenue, Stop 8219 • Pocatello, Idaho 83209-8219

*Approved
Arthur C. Vailas
3/15/16*

March 15, 2016

Memorandum

TO: President Arthur C. Vailas
FROM: James A. Fletcher
Vice President for Finance and Administration
RE: Facility Name Designation Committee Recommendation

The Facility Name Designation Committee has reviewed a request submitted to rename the Division of Health Sciences to the Kasiska Division of Health Sciences at Idaho State University.

Because of the deep commitment of the Kasiska Family Foundation's support, in addition to the longevity and generosity of the support. The Kasiska Family Foundation is the single largest private donor in the history of the ISU Foundation. To date, 6,700 students have received Kasiska Scholarships, many of them now practicing health care professionals throughout Idaho, as well as around the world.

In 2010 all units at Idaho State University which align with the institution's medical mission were realigned to create the Division of Health Sciences, encompassing not only the now Kasiska School of Health Professions, but the School of Nursing, the College of Pharmacy, the School of Rehabilitation and Communication Sciences, the Office of Medical and Oral Health, the state of the art Meridian Health Science Center and fully operational medical clinics. This Memorandum of Understanding with the Kasiska Family Foundation is intended to extend the Kasiska Legacy to this Division, making it from this point forward the KASISKA DIVISION OF HEALTH SCIENCES at Idaho State University.

The committee is in agreement that this is a valid request and recommends that it be supported. A copy of the Memorandum of Understanding is attached for your review.

Board approval is required for this change and upon your approval, the proper paperwork will be submitted to the State Board of Education.

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MEMORANDUM OF UNDERSTANDING

March 3, 2016

Proposed To: Kasiska Family Foundation Board of Managers

Proposed By: The Idaho State University Foundation, Inc.
Dr. Kent M. Tingey
Executive Director, ISU Foundation
Vice President for Institutional Advancement, Idaho State University

HISTORICAL INFORMATION

The Kasiska Family Legacy extends deep in the history of Idaho State University. It began with William F. Kasiska, who arrived in Pocatello, ID in 1880 with his wife, Mary. An astute businessman, William Kasiska invested in land, operated banks and ranches and served as Mayor of Pocatello. Through hard work, William and Mary Kasiska accumulated a significant estate, which they bequeathed equally to their daughters, Mabel and Eva.

After the passing of their father, Mabel and Eva carried forward the family enterprises. They carried, also, their father's devotion to service and philanthropy. In his memory, and in honor of his birthday, Mabel and Eva established a scholarship program at Idaho State College in December of 1949, funding scholarships for young women studying to become nurses. They continued to provide this support throughout their lifetimes, although records are not available to determine the exact level of support. In 1968 they founded the "ISU Scholarship Club" as a means to encourage others who may be capable of giving to support the student scholarships.

Eva and Mabel utilized the services of the Speech and Hearing Clinic at then Idaho State College, and developed a special relationship with the department and its Chair, Dr. Larry Sant. The Kasiska sisters purchased the audiology booths still in use today in the Speech and Hearing Clinic, and were especially generous in providing funds for equipment and scholarships benefitting that department.

Mabel passed away in 1976, and Eva lived until 1986. Eva established the Kasiska Family Foundation with her estate, and in August 1987 Wes Merrill, Neal Jordan and Edward Berrett met with Idaho State University President, Dr. Richard Bowen and presented a check in the amount of \$108,750 to provide scholarships for students enrolled in the health professions. Ed Berrett described the meeting in his written history of the Kasiska Family Foundation:

"President Bowen had no prior knowledge that the university would receive such a sum, free and unfettered for use for student scholarships. He was even more surprised when he was told by Mr. Merrill, that a similar sum would be forthcoming every year for approximately 35 years from the Kasiska Family Foundation. Mr. Merrill explained that Eva Kasiska had created a family foundation for the purpose of giving scholarships to students at Idaho State University enrolled in a health related course of study. Merrill

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told Bowen that he, Jordan and Berrett were designated by the trust to be the initial board of managers."

At the time it was the largest cash gift ever received by Idaho State University and began a long tradition of support for the health professions.

In 1999, the Kasiska Family Foundation agreed to participate in Idaho State University's Capital Campaign, and completed annual gifts of \$780,000 annually through 2009. This gift established the KASISKA COLLEGE OF HEALTH PROFESSIONS with total giving of just over \$16,000,000. Since that time the Kasiska Family Foundation has given a total of \$17,046,636 in gifts to award scholarships and purchase equipment for the health related professions programs at Idaho State University, making it the single largest private donor in the history of the ISU Foundation. To date, 6,700 students have received Kasiska Scholarships, many of them now practicing health care professionals throughout Idaho, as well as around the world.

In 2010 all units at Idaho State University which align with the institution's medical mission were realigned to create the Division of Health Sciences, encompassing not only the now Kasiska School of Health Professions, but the School of Nursing, the College of Pharmacy, the School of Rehabilitation and Communication Sciences, the Office of Medical and Oral Health, the state of the art Meridian Health Science Center and 22 fully operational medical clinics. This Memorandum of Understanding is intended to extend the Kasiska Legacy to this Division, making it from this point forward the KASISKA DIVISION OF HEALTH SCIENCES at Idaho State University.

TERMS OF GIFT AND ASSIGNMENT OF NAME:

- (1) The Kasiska Family Foundation shall commit to continue support of the Idaho State University Division of Health Sciences to reach or exceed the minimum sum of \$20,000,000 prior to or upon the termination of the Kasiska Family Foundation Trust. (Verified amounts contributed by Kasiska family members from before 1987 will be added to the total of the contribution by the Kasiska Family Foundation for the purpose of reaching the goal of \$20,000,000).
- (2) Idaho State University shall hereby name, in perpetuity (unless otherwise agreed by the parties in writing), the KASISKA DIVISION OF HEALTH SCIENCES to include the units which currently reside within the Division on the date of acceptance of this Memorandum of Understanding.
- (3) Individual colleges, schools and programs within the KASISKA DIVISION OF HEALTH SCIENCES may, at a future date, be named individually.
- (4) New colleges, schools or units related to health, including but not limited to colleges, schools or units supporting the medical mission of Idaho State University, may be

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established in the future and, if so they may also reside within the KASISKA DIVISION OF HEALTH SCIENCES as determined solely by Idaho State University.

- (5) The KASISKA DIVISION OF HEALTH SCIENCES name ("Kasiska Name") shall be used on letterhead in all units which reside within the Division of Health Sciences, according to the design protocols prescribed by the Marketing Materials and Communications Committee at Idaho State University. The KASISKA DIVISION OF HEALTH SCIENCES name will also appear on Division-wide, as well as Division unit, publications, media releases, web pages (including links to the ISU-Meridian webpages), advertisements, displays on doors or walls, and public information of every kind related to the Division or to any unit within the Division.
- (6) The KASISKA DIVISION OF HEALTH SCIENCES name shall appear on the exterior of two specific facilities at Idaho State University:
 - a. Historic Gravely Hall is located in Pocatello on the "Quad" which currently houses the administrative offices of the proposed KASISKA DIVISION OF HEALTH SCIENCES. Should the administrative offices move to another location, the Kasiska Name will follow the administrative unit to the new facilities, and be removed from Gravely Hall.
 - b. The Kasiska Name shall appear on the wall located on Memorial Drive identifying the Laurence E. Gale Life Sciences Complex, which houses laboratories, classrooms and clinics from both the proposed KASISKA DIVISION OF HEALTH SCIENCES and the College of Science and Engineering, but which laboratories, classrooms and clinics support the curriculum of all health related programs. Should the laboratories, classrooms and clinics move to another location, the Kasiska Name will follow the laboratories, classrooms and clinics to the new facilities and be removed from the Laurence E. Gale Life Sciences Complex.
- (7) The existing Division of Health Sciences has many strong degree offerings and programs at the ISU-Meridian Center. There are currently 10 programs of the KASISKA DIVISION OF HEALTH SCIENCES represented at ISU-Meridian, and there will be continued expansion of both the KASISKA DIVISION OF HEALTH SCIENCES programs in Meridian as well as other ISU programs. The Kasiska Name is to be reflected in the formal listings of faculty and staff that are employed by the KASISKA DIVISION OF HEALTH SCIENCES. In addition, all ISU-Meridian directories and electronic devices where the current "Division of Health Sciences" is listed, will now be listed as "The KASISKA DIVISION OF HEALTH SCIENCES." The Kasiska Name will also appear prominently on two interior walls within the ISU-Meridian Center, to be mutually agreed upon by Idaho State University and the Kasiska Family Foundation Board of Managers. If in the future signage is added which includes the name of a specific program or programs within the Division, the Kasiska name shall be included at that time. The Kasiska

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Name shall appear prominently on the existing KASISKA DIVISION OF HEALTH SCIENCES websites including ISU-Meridian webpages.

- (8) Depictions of how the Kasiska Name will appear on the buildings are attached hereto (see Attachment C).
- (9) In the event that the Kasiska Division of Health Sciences is restructured, altered, or dissolved by future leadership, the Kasiska Name will be reassigned as mutually agreed upon by Idaho State University and the Kasiska Family Foundation Board of Managers with the intent of achieving a name which is equally prominent.

STEWARDSHIP AND REPORTING

- (1) The Idaho State University Foundation shall announce the naming of the KASISKA DIVISION OF HEALTH SCIENCES at a media event unveiling the name at a location and time determined in concert with the Kasiska Family Foundation Board of Managers.
- (2) The Idaho State University Foundation, in concert with the administration of the KASISKA DIVISION OF HEALTH SCIENCES, shall provide to the Board of Managers an annual report of the work and initiatives achieved and made possible through the support of the KASISKA FAMILY FOUNDATION.
- (3) In recognition of the decades of support which began with William Kasiska, the Kasiska Family Foundation shall be the first recipient of the newly established Idaho State University Foundation Spirit of Philanthropy Award to be presented at the 2016 Gem Legacy Dinner scheduled for April 7, 2016.
- (4) The Idaho State University Foundation shall work with the proposed KASISKA DIVISION OF HEALTH SCIENCES to ensure, in perpetuity (unless otherwise agreed by the parties in writing), proper recognition and publicity regarding the Kasiska Family Legacy of support and the tremendous impact which it has made and will continue to make on Idaho State University and its students.

It is mutually understood and agreed upon that the representatives of Idaho State University, the Idaho State University Foundation, and the Kasiska Family Foundation will work together in the spirit of philanthropy established by Eva Kasiska on behalf of the Kasiska Family, to advance the cause of deserving students seeking quality higher education in the health sciences through the KASISKA DIVISION OF HEALTH SCIENCES.

This Memorandum of Understanding does not preclude the Kasiska Family Foundation from considering future additional requests to further support the KASISKA DIVISION OF HEALTH SCIENCES.

Signatures are on the following page

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
APRIL 14, 2016

IDAHO STATE UNIVERSITY

By: _____
Dr. Kent Tingey
Executive Director, ISU Foundation
Vice President for Institutional Advancement
Idaho State University

Date

By: _____
Dr. Linda Hatzenbuehler
Executive Director and Vice-Provost
Division of Health Sciences, Idaho State University

Date

By: _____
Laura Woodworth-Ney
Provost and Vice President for Academic Affairs
Idaho State University

Date

ACCEPTED BY KASISKA FAMILY BOARD OF MANAGERS:

Alan K. Van Orden, Chairman and Member

Date

Dave R. Gallafent, Member

Date

Kirk E. Reeder, Member

Date

ATTACHMENT A

History of the gifts completed by the Kasiska Family Foundation
to the Idaho State University Foundation, Inc.

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ATTACHMENT B

"THE KASISKA FAMILY FOUNDATION"

A History of the Kasiska Family by Edward J. Berrett
Founding Member of the Kasiska Family Foundation Board of Managers

ATTACHMENT D

Sample of KASISKA DIVISION OF HEALTH SCIENCES Administration Letterhead and Web Page

ATTACHMENT C

Representations of the KASISKA DIVISION OF HEALTH SCIENCES Name:

Gravelly Hall
Idaho State University-Meridian Center
Laurence E. Gale Life Sciences Complex

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