

**PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
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SUBJECT

Pending Rule Docket 08-0000-1900, Rules of the State Board of Education

REFERENCE

April 2019

Board received update on impact of legislature not extending codified rules after June 30, 2019.

May 2019

Board approved temporary and proposed rules initiating the process for putting back place rules that were codified at the end of the 2019 Legislative session.

BACKGROUND/DISCUSSION

Each year Idaho's codified administrative code is scheduled to expire on June 30th. As part of the legislature's annual duties during the legislative session they consider a bill to extend the codified rules, including those not rejected during the legislative session, until June 30th of the following year. During the 2019 Legislative Session, this bill did not pass, so all currently codified rules are scheduled to expire on June 30, 2019. To mitigate the potential chaos this could cause and ensuing potential liability to the state for not implementing many provision required by statute or the state constitution, the Governor has authorized the approval of temporary and proposed rules through an omnibus process that would reinstate the rules on a temporary basis effective July 1, 2019 and start the rule promulgation process with a temporary and proposed rule for each section of the Idaho Administrative Procedures Act (IDAPA). As part of this process, agencies also have the opportunity to identify any outdated or unneeded titles of rules and allow them to expire.

Each section of Administrative Code is divided by an IDAPA number, then title and chapter. As an example, IDAPA 08.02.01 is IDAPA 08, Title 02, Chapter 01. Administrative rules promulgated by the Board of Education encompass three sections of IDAPA including 22 chapters. Four chapters are found in IDAPA 55 pertaining to Career Technical Education. Two chapters are found in IDAPA 47 and pertain to Vocational Rehabilitation. Sixteen chapters are found in IDAPA 08 and pertain to all other public education. Board staff have identified eight chapters that could be allowed to expire, one of which would be moved to Board policy with a first reading scheduled for the June regular Board meeting. Any other negotiated rulemaking initiated this year will be required to follow the normal negotiated rulemaking process with the publication of a notice of intent, negotiation with interested parties, followed by a proposed rule being brought to the Board at the June or August Regular Board meetings for consideration. All approved proposed rules are then published in the administrative bulletin, which then triggers a 21-day public commit period. All pending rules, including those approved through this process will be brought back to the Board for consideration at the close of the 21-day public comment period. Any pending rules approved by the Board will then be submitted to the legislature for consideration in 2020.

The currently codified rules that have been identified for expiration are:

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- 08.01.01, Rules of the State Board of Education and Board of Regents – This title includes provision for handling contested case hearings and public information requests. Statutory provisions regarding these requirements have been updated since this rule was enacted. This rule is now redundant and out of date. Expiration of the rule will remove the obsolete rule and any potential conflicts with the statutory requirements now in place.
- 08.01.04, Residency (tuition purposes) – This will be moved to Board of Education Policy. This rule governs the process for the institutions to evaluate whether or not a potential student is eligible for residency for tuition purposes. Residency for postsecondary tuition purposes at the four-year institutions is governed through Section 33-3717B, Idaho Code. Pursuant to Section 33-105, Idaho Code, the Board is authorized to establish Board policy for its governance, and the governance of the agencies and institutions, including those impacting future students. A first reading of a new Board policy will be brought forward at the June Board meeting transitioning the existing rule to Board policy.
- 08.01.07, State Professional Studies Program – This chapter pertains to a loan repayment program that has not been funded in over a decade and is now obsolete.
- 08.01.08, Miscellaneous Rules of the State Board of Education – This chapter is made up of one provision providing an exception to the prohibition of alcohol in state facilities through Board policy. This chapter is unnecessary. Other sections of Idaho law govern the use of state owned facilities, including the Board's ability to set policy on the use of the facilities under its control.
- 55.01.01, Rules Governing Administration (CTE) – This chapter is redundant and unnecessary. The Board has statutory authority to set the types of policies described in this chapter and does not need an administrative rule granting the same authority.
- 55.01.02, Rules Governing Postsecondary Program Reduction or Termination (CTE). This chapter is redundant. The Board has statutory authority to set policy regarding the reduction and termination of programs, including CTE programs.
- 47.01.01, Rules Governing Idaho Division of Vocational Rehabilitation. This chapter pertains to the Division of Vocational Rehabilitation's management of the requirements established in the Rehabilitation Act of 1973 ("Act") and all subsequent amendments. This section has been amended over the years on a piece meal basis to respond to amendments to the Act and changes in federal guidance. Allowing this rule to expire will provide for an opportunity to bring a streamlined version forward that responds to the current requirements of the Rehabilitation Act as amended through the Workforce Opportunity and Innovation Act. An amended temporary rule will be brought forward for the Board's consideration at a later date.
- 47.01.02, Rules Governing Extended Employment Services – All administrative rules require some form of statutory authority to be enacted. The Extended Employment Services program is currently a program within the Division of Vocational Rehabilitation budget. While this title of rule was created in 2006 and

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accepted by the legislature in 2007, there is no statutory authority for it. The rule will not be able to be reenacted until such time as there is statutory authority to do so.

All other codified rules will be reenacted through this process and will go before the 2020 Legislature as pending rules with all new language. Pending rules at the legislative level are divided into two categories, fee rules and non-fee rules. Rules that enact a fee must be affirmatively accepted by both the House of Representatives and the Senate to be enacted. Non-fee rules are not required to be accepted by both chambers. Through the normal negotiated rulemaking process only the specific sections or subsections of the rule that are being amended are included in a single docket, allowing dockets for fee rules to be handled separately from dockets with amendments to policy that are not creating or amending a fee. Similar to that process, those sections of the rule title that include current fees will be separated out into their own docket.

IMPACT

Approval of the pending omnibus rule will allow the rules to be submitted to the Legislature for consideration.

ATTACHMENTS

Attachment 1 – Pending Rule Docket 08-0000-1900

Attachment 2 – Pending Amendments, Subsection 08.02.03.110

STAFF COMMENTS AND RECOMMENDATIONS

The proposed rule was published in June 19, 2019 (Vol.12-6SE) Administrative Rules bulletin. Staff received no comments during the ensuing 21-day comment period. During the 21-day comment period staff received approximately 753 requests for a public hearing on this docket. The majority of the requests and comments received were in a form letter. Written comments received during this time period included:

- Five comments request the removal of “common core standards” or “federal standards”
- 425 comments in support of maintaining, protecting the science standards and indicated the support of strong science standards
- 19 comments in favor of the current contents standards without specifying subject area.

In response to the requests for public hearings, staff conducted five public hearings. The hearings were conducted in Coeur d’Alene at North Idaho College, Nampa at the College of Western Idaho, Twin Falls at the College of Southern Idaho, Idaho Falls at the College of Eastern Idaho, and in Challis at the Legion Hall. Due to the public hearings, the public comment period was extended to October 4, 2019. At the start of each hearing staff went over what was covered in the docket, which two content standards were part of the original standards referred to the “common core” standards and the process that they went through

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went they were originally adopted and amended in 2016 when they were re-adopted. While Docket 08-0000-1900 covers much more than the Idaho content standards, the majority of the comments received during the hearings was regarding the standards, additional comments covered concerns over too much testing or teaching to a test. The comments against the standards ranged from comments about indoctrination, United Nation conspiracies, and accusations of indoctrinating students to become “liberal” or change their sexual orientation. Additionally, there was a wide range of understanding about which standards were being referenced when they were referencing “the common core standards.” References ranged from the English language arts and mathematics content standards to combinations that also included science and social studies. Of those that provided comments about the “common core” standards, many of the comments were not based on factual information or were general statements regarding the standards being too low. For those individuals who provided examples of their concerns about the standards, the overwhelming majority of them were based on experiences with curriculum chosen by the school districts rather than the standards themselves.

Location	# Testifying	# Supporting Standards
Coeur d’Alene	31	04
Nampa	37	20
Twin Falls	30	21
Idaho Falls	51	26
Challis	12	00
Total	161	71

Fifteen additional written comments were received, ten were written versions of verbal comments made at the hearings. Verbal comments were also solicited at four of the five regional superintendents’ meetings held in September and October. Only one concern was raised regarding clarification of the at-risk definition in rule.

There has been one change based on public comment received during the public comment period requesting clarification of the definition of at-risk students in IDAPA 08.02.03.110. HB 293 (2019) established a definition for at-risk students as that term is used in Chapter 10, Title 33. This new definition that went into effect July 1, 2019 supersedes the definition in Administrative Code. The amendment to this section of rule removes the definition in rule and points individuals back to the definition in Section 33-1001, Idaho Code.

Once approved, pending rules will be submitted to the Department of Administration for publication in the Idaho Administrative Rules Bulletin and are then forwarded to the legislature for consideration. As a pending fee rule, this rule must be accepted by the House and the Senate to be accepted during the 2020 Legislative Session. Pending rules become effective at the end of the legislative session in which they are submitted, if they are not rejected by the Legislature.

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Staff recommends approval.

BOARD ACTION

I move to approve pending rule, docket 08-0000-1900, described in attachment 1 with the amendment identified in attachment 2.

Moved by _____ Seconded by _____ Carried Yes ____ No ____

IDAPA 08 – STATE BOARD OF EDUCATION
DOCKET NO. 08-0000-1900

NOTICE OF OMNIBUS RULEMAKING - TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rule(s) listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Sections 33-101, 33-105, 33-107, 33-115, 33-116, 33-118, 33-118A, 33-119, 33-120, 33-125B, 33-130, 33-133, 33-134, 33-136, 33-203, 33-307, 33-310, 33-320, 33-523, 33-804A, 33-1002, 33-1002C, 33-1002F, 33-1004, 33-1006, 33-1007A, 33-1201, 33-1201A, 33-1202, 33-1204, 33-1205, 33-1210, 33-1212, 33-1212A, 33-1280, 33-1304, 33-1602, 33-1612, 33-1613, 33-1614, 33-1616, 33-1631, 33-2002, 33-2003, 33-2009, 33-2402, 33-2403, 33-4303, 33-4402, 33-4403, 33-4601A, 33-4605, 33-5203, 33-5205, 33-5207, 33-5208, 33-5210, 33-5504, 33-5505, 33-5507, and 22-1504 Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 08, rules of the Idaho State Board of Education:

IDAPA 08 State Board of Education

- 08.01.02, Rules Governing the Postsecondary Credit Scholarship Program
- 08.01.10, Idaho College work Study Program
- 08.01.11, Registration of Postsecondary Education Institutions and Proprietary Schools
- 08.01.13, Rules Governing the Opportunity Scholarship Program
- 08.02.01, Rules Governing Administration
- 08.02.02, Rules Governing Uniformity
- 08.02.03, Rules Governing Thoroughness
- 08.02.04, Rules Governing Public Charter Schools
- 08.02.05, Rules Governing Pay for Success Contracting
- 08.03.01, Rules of the Public Charter School Commission
- 08.04.01, Rules of the Idaho Digital Learning Academy
- 08.05.01, Rules Governing Seed and Plant Certification

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

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FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208)332-1582 or tracie.bent@osbe.idaho.gov.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this June 19, 2019.

Tracie Bent, Chief Planning and Policy Officer
Office of the State Board of Education
650 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0037
Phone: (208) 332-1582
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110. ALTERNATIVE SECONDARY PROGRAMS (SECTION 33-1002; 33-1002C; 33-1002F, IDAHO CODE).

Alternative secondary programs are those that provide special instructional courses and offer special services to eligible at-risk youth to enable them to earn a high school diploma. Designated differences must be established between the alternative school programs and the regular secondary school programs. Alternative secondary school programs will include course offerings, teacher/pupil ratios and evidence of teaching strategies that are clearly designed to serve at-risk youth ~~as defined in this section pursuant to section 33-1001, Idaho code. Alternative high school programs conducted during the regular school year will be located on a separate site from the regular high school facility or be scheduled at a time different from the regular school hours.~~ (3-29-17)

~~**01. Student Qualifications.** An at risk youth is any secondary student grade six through twelve (6-12) who meets any three (3) of the following criteria, Subsections 110.01.a. through 110.01.g., or any one (1) of criteria in Subsections 110.01.h. through 110.01.n. (3-29-17)~~

~~**a.** Has repeated at least one (1) grade. (4-1-97)~~

~~**b.** Has absenteeism that is greater than ten percent (10%) during the preceding semester. (4-1-97)~~

~~**c.** Has an overall grade point average that is less than 1.5 (4.0 scale) prior to enrolling in an alternative secondary program. (4-1-97)~~

~~**d.** Has failed one (1) or more academic subjects in the past year. (3-29-17)~~

~~**e.** Is below proficient, based on local criteria or standardized tests, or both. (3-29-17)~~

~~**f.** Is two (2) or more credits per year behind the rate required to graduate or for grade promotion. (3-29-17)~~

~~**g.** Has attended three (3) or more schools within the previous two (2) years, not including dual enrollment. (3-29-17)~~

~~**h.** Has documented or pattern of substance abuse. (3-29-17)~~

~~**i.** Is pregnant or a parent. (4-1-97)~~

~~**j.** Is an emancipated youth or unaccompanied youth. (3-29-17)~~

~~**k.** Is a previous dropout. (4-1-97)~~

~~**l.** Has serious personal, emotional, or medical issue(s). (3-29-17)~~

~~**m.** Has a court or agency referral. (3-29-17)~~

~~**n.** Demonstrates behavior that is detrimental to their academic progress. (3-29-17)~~

~~**0201. Instruction.** Special instruction courses for at-risk youth enrolled in an alternative secondary program will include: (4-1-97)~~

~~**a.** Core academic content that meets or exceeds minimum state standards; (3-29-17)~~

~~**b.** A physical fitness and personal health component; (3-29-17)~~

~~**c.** Career and technical education component approved by the state division of career technical education; (3-29-17)~~

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d. A personal finance, parenting, and child care component; and (3-29-17)

e. A personal and career counseling component. (3-29-17)

0302. Graduation Credit. Graduation credit may be earned in the following areas: academic subjects, electives, and approved work-based learning experiences. Nonacademic courses, i.e., classroom and office aides do not qualify for credit unless they are approved work-based learning experiences. (4-5-00)

0403. Special Services. Special services for at-risk youth enrolled in alternative secondary programs include the following where appropriate: (3-29-17)

a. A day care center when enrollees are also parents. This center should be staffed by a qualified child care provider. (4-1-97)

b. Direct social services that may include officers of the court, social workers, counselors/psychologists. (4-1-97)

c. All services in accordance with the student's Individualized Education Program. (3-29-17)

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SUBJECT

Pending Rule Docket 08-0000-1900F – Rules of the State Board of Education

REFERENCE

April 2019

Board received update on impact of legislature not extending codified rules after June 30, 2019.

May 2019

Board approved temporary and proposed rules, initiating the process for re-establishing previously codified administrative code.

BACKGROUND/DISCUSSION

Each year Idaho's codified administrative code is scheduled to expire on June 30th. As part of the legislature's annual duties during the legislative session they consider a bill to extend the codified rules, including those not rejected during the legislative session, until June 30th of the following year. During the 2019 Legislative Session, this bill did not pass, so all currently codified rules are scheduled to expire on June 30, 2019. To mitigate the potential chaos this could cause and ensuing potential liability to the state for not implementing many provision required by statute or the state constitution, the Governor has authorized the approval of temporary and proposed rules through an omnibus process that would reinstate the rules on a temporary basis effective July 1, 2019 and start the rule promulgation process with a temporary and proposed rule for each section of the Idaho Administrative Procedures Act (IDAPA). As part of this process, agencies also have the opportunity to identify any outdated or unneeded titles of rules and allow them to expire.

Docket 08-0000-1900F re-establishes those section of IDAPA 08 that establish fees. The fees that are included in these sections are the fees that pre-existing fees that were in place at the end of the 2019 Legislative Session.

IMPACT

Approval of the pending omnibus rules will allow the currently codified education rules to be submitted to the 2020 Legislature for consideration.

ATTACHMENTS

Attachment 1 – Pending Fee Rule Docket 08-0000-1900F

STAFF COMMENTS AND RECOMMENDATIONS

The proposed rule was published in June 19, 2019 (Vol.12-6SE) Administrative Rules bulletin. Staff received no comments during the ensuing 21-day comment period. Once approved, pending rules will be submitted to the Department of Administration for publication in the Idaho Administrative Rules Bulletin and are then forwarded to the legislature for consideration. As a pending fee rule, this rule must be accepted by the House and the Senate to be accepted during the 2020 Legislative Session. Pending rules become effective at the end of the legislative session in which they are submitted, if they are not rejected by the Legislature.

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There have been no changes between the proposed and pending rule. Staff recommends approval.

BOARD ACTION

I move to approve pending rule Docket 08-0000-1900F as described in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

**IDAPA 08 – STATE BOARD OF EDUCATION
DOCKET NO. 08-0000-1900F**

NOTICE OF OMNIBUS RULEMAKING - PENDING FEE RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rule(s) listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 33-118, 33-130, 33-1205, 33-2402 and 2403, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 08, rules of the State Board of Education:

IDAPA 08

- 08.01.11, Registration of Postsecondary Educational Institutions and Proprietary Schools:
 - Subsection 200.07 Registration Fee, Postsecondary Educational Institutions
 - Subsection 300.06 Registration Fee, Proprietary Schools
- 08.02.02, Rules Governing Uniformity
 - Subsection 066 Fees, Educator Certification
 - Subsection 075.03, Fingerprinting and Background Investigation Checks
- 08.02.03, Rules Governing Thoroughness
 - Subsection 128, Curricular Materials Selection and Online Course Approval

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules.

Chapter 24, Title 33, Idaho Code requires the State Board of Education to register postsecondary educational institutions and proprietary schools and to assure these institutions and schools meet certain requirements to provide for protection of the students who purchase educational services from them. The authorized fee is used to process, evaluate, and investigate the assurances provided through the registration process to assure for a reasonable amount of consumer protection.

Section 33-1205, Idaho Code, authorizes the State Board of Education to set fees related to the maintenance of educator certification records and ethic reviews, such fees are used for the payment of expenses for the Professional Standards Commission in performing its statutory duties, including these ethics reviews along with certification standards reviews. These standards are critical in assuring the quality of our educators and the ethical behavior of individuals educating our public school students.

Section 33-130, Idaho Code, requires all individuals who have unsupervised contact with public school student to have a criminal background check and requires the Department of Education to charge these

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individuals the necessary fee to cover the cost of undergoing a criminal history check. These criminal history checks are necessary to provide for the safety of the students in our public school system.

Curricular materials may be selected from of a state list of materials that have been reviewed and found in alignment with our state content standards or through a process at the local level. At the state level this process is conducted through the curricular materials review committee. Section 33-118, Idaho Code requires the State Board of Education to determine the process for the review and to set any fees necessary to defray the cost of such reviews. The fee set pursuant to Section 33-118, Idaho Code is necessary to defray the costs of these state level reviews. The state reviews provide a list of material school districts can select from, allowing them to identify quality material aligned to the standards without having to incur the expense of the reviews at the local level.

The fee or charge imposed by the rule(s) is necessary to avoid immediate danger. The fee(s) or charge(s) reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. These fees are necessary to cover the cost of performing the specified statutory functions, failure to collect these fees would result in the inability for the State Board of Education to fulfil the applicable statutory requirements and reduce the protection provided for individuals purchasing educational services and the health and safety of students in the public school system.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

IDAPA 08.01.11

Annual registration fee for initial registration or renewal of registration is equal to one-half of one percent (.5%) of the gross Idaho tuition revenue of the institution during the previous tax reporting year (Jan 1 - Dec 31), but not less than one hundred dollars (\$100) and not to exceed five thousand dollars (\$5,000).

IDAPA 08.02.02.066

- Initial Certificate \$75.00
- Renewal Certificate \$75.00
- Alternate Route Authorization \$100
- Additions or Changes to an Existing Certificate \$25
- Replace an Existing Certificate \$10

IDAPA 08.02.02. Background Check/Fingerprinting

- Fingerprinting Processing Fee, All Applicants (excluding volunteers) \$28.25
- Fingerprinting Processing Fee, Volunteers \$26.25

IDAPA 08.02.03

- Curricular Materials Review submission fee \$60 or an amount equal to the retail price of each curricular material

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title

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67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208)332-1582 or tracie.bent@osbe.idaho.gov.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this June 19, 2019.

Tracie Bent, Chief Planning and Policy Officer
Office of the State Board of Education
650 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0037
Phone: (208) 332-1582
Fax: (208) 334-2632

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
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SUBJECT

Pending Rule – Docket No. 08-0113-1901, Rules Governing the Opportunity Scholarship Program

REFERENCE

August 31, 2017	Board approved proposed rule Docket 08-0113-1701, Rules Governing the Opportunity Scholarship, making technical corrections and clarifying that GPAs of more than one decimal place will be rounded up.
November 15, 2017	Board approved pending rule Docket 08-0113-1701.
April 2018	Board approved temporary rule Docket 08-0113-1801, establishing provision for the Opportunity Scholarship to be used for “Adult Learners.”
August 2018	Board approved proposed rule Docket 08-0113-1802 establishing provision for the Opportunity Scholarship for Adult Learners.
November 2018	Board vacated proposed rule Docket 08-0113-1802 and directed staff to bring back a version allowing certificates to be stackable during the 2019-2020 rulemaking cycle.
August 2019	Board approved proposed rule lower the minimum GPA requirement and adding provisions for adult learners.

APPLICABLE STATUTE, RULE, OR POLICY

Idaho Administrative Code, IDAPA 08.01.13, Rules Governing the Opportunity Scholarship Program
Section 33-4303, Idaho Code, Opportunity Scholarship

BACKGROUND/DISCUSSION

IDAPA 08.01.13 sets out the eligibility and application requirements for the Opportunity Scholarship, as authorized by Section 33-4303, Idaho Code. Senate Bill 1279 (2018), amended Section 33-4303, Idaho Code, authorizing the State Board of Education to award up to 20% of the funds appropriated for the Opportunity Scholarship to individuals with 24 or more postsecondary credits.

The pending rule will make amendments to the student eligibility and application requirements to allow for a portion of the Opportunity Scholarship awards to be used for individuals who have earned 24 or more postsecondary credits. Pending amendments include:

- Defining an “Adult Learner” and graduation plan;
- Lower the minimum GPA from 3.0 to 2.7 for all students while allowing Adult Learners to apply with a 2.5 GPA and renew with a 2.7 GPA;
- Allow Adult Learners to apply at an alternate date set by the Executive Director, rather than the current March 1 deadline;

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- Require Adult Learners to have “stopped out” for 24 or more months, with the exception of two (2) courses;
- Allow Adult Learners to attend part-time;
- Pro-rate the amount of the awards for Adult Learners based on the number of credits attempted down to a minimum of six (6) credits;
- Require institutions to discuss opportunities for students to receive credits through prior learning assessments; and
- Require students to show progress on their educational plans to maintain scholarship eligibility.

The rule amendments are based on staff research, feedback received from Idaho postsecondary institutions and the Legislature during the 2018 and 2019 Legislative Session regarding provisions for Adult Learner student eligibility.

IMPACT

Approval of the pending rule will set the requirements for awarding the Opportunity Scholarship for individuals who apply as Adult Learners.

ATTACHMENTS

Attachment 1 – Pending Rule Docket No. 08-0113-1901

STAFF COMMENTS AND RECOMMENDATIONS

Administrative rules are made up of three types of rules, temporary rules, proposed rules and pending rules. Temporary and proposed rules may be promulgated jointly with a single docket number or temporary rules may be promulgated as a standalone rule. The rulemaking process is initiated by the publication of a Notice of Intent. The Notice of Intent to Promulgate Rules for this rule was published in the July 6, 2019 (Vol 19-7) Idaho Administrative Rules Bulletin. Staff received no requests to participate in the formal negotiated rulemaking process. The proposed rule approved by the Board was published in the October 2, 2019 (Vol. 19-10) Administrative Rules bulletin. Staff received no comments during ensuing 21-day comment period. Once approved, pending rules will be submitted to the Department of Administration for publication in the Idaho Administrative Rules Bulletin and are then forwarded to the legislature for consideration. Pending rules become effective at the end of the legislative session in which they are submitted, if they are not rejected by the Legislature.

There have been no changes between the proposed and pending rule. Staff recommends approval.

BOARD ACTION

I move to approve pending rule – Docket No. 08-0113-1901, as submitted in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

**IDAPA 08
TITLE 01
CHAPTER 13**

08.01.13 – Rules Governing the Opportunity Scholarship Program

000. LEGAL AUTHORITY.

In accordance with Sections 33-105, and 33-4303, Idaho Code, the State Board of Education (Board) shall promulgate rules implementing the provisions of Title 33, Chapter 56, Idaho Code. (3-28-18)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 08.01.13, “Rules Governing the Opportunity Scholarship Program.” (4-2-08)

02. Scope. These rules constitute the requirements for the Opportunity Scholarship Program. (4-2-08)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, written interpretations, if any, of the rules of this chapter are available at the Board. (4-2-08)

003. ADMINISTRATIVE APPEALS.

Unless otherwise provided for in the rules of the Board or in the Board Governing Policies and Procedures, all administrative appeals allowed by law shall be conducted as provided herein. (4-2-08)

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into these rules. (4-2-08)

005. OFFICE INFORMATION.

01. Office Hours. The offices of the Board are open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. (4-2-08)

02. Street Address. The offices of the Board are located at 650 W. State Street, Boise, Idaho. (4-2-08)

03. Mailing Address. The mailing address of the Board is P.O. Box 83720, Boise, Idaho 83720-0037. (4-2-08)

04. Telephone Number. The telephone number of the Board is (208) 334-2270. (4-2-08)

05. Facsimile. The facsimile number of the Board is (208) 334-2632. (4-2-08)

06. Electronic Address. The electronic address of the Board of Education at www.boardofed.idaho.gov. (4-2-08)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (4-2-08)

007. -- 009. (RESERVED)

010. DEFINITIONS.

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01. Adult Learner. Means an individual who: ()
a. Is not currently enrolled in a postsecondary institution accredited by a body recognized by the State Board of Education; ()

b. Has not attended more than two (2) courses at a postsecondary institution at any time during the twenty-four (24) month period immediately prior to application for the Opportunity Scholarship; and ()

c. Has earned twenty-four (24) or more transferable credits from a postsecondary institution accredited by a body recognized by the State Board of Education. ()

012. Grade Point Average (GPA). Means the average grade earned by a student, figured by dividing the grade points earned by the number of credits attempted. (3-20-14)

03. Graduation Plan. Means a plan developed by the postsecondary student in consultation with the postsecondary institution that identifies the certificate or degree the student is pursuing, the course and credit requirements necessary for earning the certificate or degree, the application of previously earned credits and credits granted through prior learning assessments, the estimated number of terms remaining to complete the certificate or degree and the proposed courses to be taken during each term. ()

011. -- 100. (RESERVED)

101. ELIGIBILITY.

Applicants must meet all of the eligibility requirements to be considered for the scholarship award. (3-28-18)

01. Undergraduate Student. An eligible student must be pursuing their first undergraduate certificate or degree from an institution accredited by a body recognized by the State Board of Education. A student may have received multiple certificates or degrees as part of the natural progression towards a recognized baccalaureate degree program. A student who is enrolled in a graduate program, but who has not yet earned a baccalaureate degree, is not eligible for an opportunity scholarship. A student enrolled in an undergraduate program is eligible for consideration for an opportunity scholarship, even if some of the student's courses are at the graduate level. ~~(3-20-14)~~ ()

02. Academic Eligibility. To be eligible for an opportunity scholarship, an applicant must meet minimum academic eligibility criteria, as follows: (3-28-18)

a. A student who has not yet graduated from secondary school or its equivalent in the state of Idaho must have an un-weighted minimum cumulative grade point of average of ~~three-two point zero-seven (3.02.7)~~ or better on a scale of four point zero (4.0) to be eligible to apply for an opportunity scholarship. Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) place. Home schooled students must provide a transcript of subjects taught and grades received signed by the parent or guardian of the student; or ~~(3-28-18)~~ ()

b. A student who has obtained a general equivalency diploma must have taken the ACT assessment and received a minimum composite score of twenty (20) or better, or the equivalent SAT assessment and received a one thousand ten (1,010) or better, to be academically eligible to apply for an opportunity scholarship; or (3-28-18)

c. A student currently enrolled in an eligible Idaho postsecondary educational institution must have a minimum cumulative grade point average of ~~three-two point zero-seven (3.02.7)~~ or better on a scale of four point zero (4.0) at such institution in order to be academically eligible to apply for an opportunity scholarship. Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) place. ~~(3-28-18)~~ ()

d. An Adult Learner must have a minimum cumulative grade point average of two point seven (2.5) or higher on a scale of four point zero (4.0). Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) decimal place. ()

03. Financial Eligibility. Applicants for the opportunity scholarship are selected as recipients, in part, based on demonstrated financial need. The tool used to determine financial need is the Free Application for Federal Student Aid (FAFSA), used by the United States Department of Education. The financial need of an applicant for an

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opportunity scholarship will be based upon the verified expected family contribution, as identified by the FAFSA Student Aid report. The Student Aid report used to calculate financial need will be the report generated on the ~~March 1~~ application deadline. ~~(3-28-18)~~(____)

04. Additional Eligibility Requirements. (4-2-08)

a. A student must not be in default on a student educational loan, or owe a repayment on a federal grant, and must be in good financial standing with the opportunity scholarship program. (3-20-14)

b. If a student has attempted or completed more than one hundred (100) postsecondary academic credits, then such student must identify his or her major, the required number of credits necessary for graduation in such major, and shall submit an academic transcript that contains all courses taken and all postsecondary academic credit received to the Board office. A student shall not be eligible for an opportunity scholarship if: (3-20-14)

i. The student is not meeting satisfactory academic progress at the eligible Idaho postsecondary educational institution the student is attending at the time he or she applies for an opportunity scholarship; (4-2-08)

ii. The student has completed more than one hundred fifty percent (150%) of the courses and academic credit necessary to graduate in such major; or (4-2-08)

iii. Upon review of the student's academic transcript(s), the student cannot complete their degree/certificate in the major they have identified within two (2) semesters based on normal academic course load unless a determination by the executive director or designee has been made that there are extenuating circumstances and the student has a plan approved by the executive director or designee outlining the courses that will be taken and the completion date of the degree or certificate. (3-28-18)

102. -- 201. (RESERVED)

202. APPLICATION PROCESS.

01. Initial Applications. An eligible student must complete and submit the opportunity scholarship program application to the Board electronically on or before the date specified in the application, but not later than the deadline set by the executive director each year if an Adult Learner and not later than March 1 for all other students. Adult Learn applications will be processed and awarded on a monthly basis upto the application deadline. An applicant without electronic capabilities may request a waiver of this requirement and if granted submit an application on the form established by the Board through the United States Postal Service, which must be postmarked not later than ~~March 1~~the applicable application deadline. All applicants must complete and submit the FAFSA on or prior to ~~March 1~~the application deadline. ~~(3-28-18)~~(____)

02. Announcement of Award. Announcement of the award of initial scholarships will be made no later than June 1 of each year, with awards to be effective at the beginning of the first full term following July 1 of that year. Announcements must clearly state the award is part of the state's scholarship program and is funded through state appropriated funds. Additional award announcement may be made after this date based on the availability of funds and the acceptance rate of the initial awards. (3-9-16)

03. Communication with State Officials. Applicants must respond by the date specified to any communication from officials of the opportunity scholarship program. Failure to respond within the time period specified will result in cancellation of the application or forfeiture of the scholarship unless extenuating circumstances are involved and approved by the executive director or designee. (3-28-18)

203. -- 299. (RESERVED)

300. SELECTION OF SCHOLARSHIP RECIPIENTS.

01. Selection Process. Scholarship awards will be based on the availability of scholarship program

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funds. Opportunity scholarships will be awarded to applicants, based on ranking and priority, in accordance with the following criteria: (3-28-18)

a. Eligible students shall be selected based on ranking criteria that assigns seventy percent (70%) to financial eligibility, and thirty percent (30%) to academic eligibility. In the event that this weighted score results in a tie, an eligible student who submitted his application to the Board earliest in time will be assigned a higher rank. (3-28-18)

b. Notwithstanding Subsection 300.01.a. of these rules, the priority for the selection of recipients of opportunity scholarship awards shall be to scholarship recipients who received an opportunity scholarship award during the previous fiscal year, and have met all of the continuing eligibility requirements provided in these rules. (3-28-18)

02. Monetary Value of the Opportunity Scholarship. (4-2-08)

a. The Board will establish annually the educational costs for attending an eligible Idaho postsecondary educational institution for purposes of the opportunity scholarship program. (3-28-18)

b. The monetary value of the opportunity scholarship award to a student shall be based on the educational costs for attending an eligible Idaho postsecondary educational institution, less the following: (4-2-08)

i. The amount of the assigned student responsibility, established by the Board annually; (4-2-08)

ii. The amount of federal grant aid, as identified by the Student Aid Report (SAR) that is known at the time of award determination; (3-20-14)

iii. The amount of other financial aid awarded the student, from private or other sources that is known at the time of award determination. (3-20-14)

iv. The eligible maximum award amount for Adult Learners enrolled in less than twenty-four (24) credit hours or its equivalent in an academic year attending an eligible four-year postsecondary institution or less than eighteen (18) credit hours or its equivalent in an academic year attending an eligible two-year institution will be prorated as follows: ()

(1) Enrolled in six (6) to eight (8) credits or its equivalent per term, fifty percent (50%) of the maximum award amount; ()

(2) Enrolled in nine (9) to eleven (11) credits or its equivalent per term, seventy-five percent (75%) of the maximum award amount; and ()

(3) Enrolled in twelve (12) or more credits or its equivalent per term, one-hundred percent (100) of the maximum award amount. ()

c. The amount of an opportunity scholarship award to an individual student shall not exceed the educational cost established by the Board annually, and shall not exceed the actual cost of tuition and fees at ~~an~~the Idaho public postsecondary educational institution the student attends or will attend, or if the student attends or will attend an Idaho private postsecondary educational institution, the average tuition at Idaho's public four (4) year postsecondary educational institutions. (3-28-18) ()

301. OPPORTUNITY SCHOLARSHIP AWARD.

01. Payment. Payment of opportunity scholarship awards will be made in the name of the recipient and will be sent to a designated official at the eligible Idaho postsecondary educational institution in which the recipient is enrolled. The official must transmit the payment to the recipient within a reasonable time following receipt of the payment. (4-2-08)

02. Duration. Scholarships will be awarded on an annual basis and payments will correspond to academic terms, semesters, quarters, or equivalent units. In no instance will the entire amount of a scholarship be paid

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in advance to, or on behalf of, a scholarship recipient. The scholarship may cover up to four (4) educational years, or eight (8) semesters or equivalent for attendance at an eligible Idaho postsecondary educational institution. Awards are contingent on annual appropriations by the legislature and continued eligibility of the student. (3-28-18)

03. Eligibility. If a student receives an opportunity scholarship payment and it is later determined that the student did not meet all of the Opportunity Scholarship Program eligibility requirements, then the student is considered in overpayment status, and must return program funds in accordance with the eligible Idaho postsecondary educational institution's refund policy. (4-2-08)

302. CONTINUING ELIGIBILITY.

To remain eligible for renewal of an opportunity scholarship, the recipient must comply with all of the provisions of the Opportunity Scholarship Program and these rules: (3-28-18)

~~01. **Renewal Application.** A scholarship recipient must complete and submit a renewal application in order to be considered for a continuing scholarship for each succeeding year and update and submit the FAFSA on or prior to March 1. (3-20-14)~~

~~**0201. Credit Hours.** To remain eligible for renewal of an opportunity scholarship, the scholarship recipient attending a four (4) year eligible postsecondary institution must have completed a minimum of twenty-four (24) credit hours or its equivalent each academic year that the student received an opportunity scholarship award. A scholarship recipient attending a two (2) year eligible postsecondary institution must have completed a minimum of eighteen (18) credit hours or its equivalent each academic year that the student received an opportunity scholarship award. Notwithstanding these provisions, a scholarship recipient that has received the Opportunity Scholarship as an Adult Learner may retain eligibility through the completion of twelve (12) or more credit hours or its equivalent each academic year the student received the Opportunity Scholarship award. All students may use the summer term to meet the annual credit accumulation requirements. (3-9-16)()~~

~~**0302. Satisfactory Academic Progress.** To remain eligible for renewal of an opportunity scholarship, the scholarship recipient must have maintained a minimum cumulative grade point average of ~~three-two~~ three-point zero-seven (~~3.27~~) on a scale of four point zero (4.0) during the time that the recipient received an opportunity scholarship award at the institutions the student attended while receiving the scholarship, and must be maintaining satisfactory academic progress, consistent within federal financial aid regulations as implemented at the eligible Idaho postsecondary educational institution at which the scholarship recipient was enrolled. Students receiving an Opportunity Scholarship award as an adult learner must make satisfactory progress on the student's graduation plan established with the eligible institution at the time of admission. (3-28-18)()~~

~~**0403. Maximum Duration of Scholarship Award.** The award of an opportunity scholarship shall not exceed the equivalent of eight (8) semesters or the equivalent of four (4) academic years. (3-20-14)~~

~~**0504. Eligibility Following Interruption of Continuous Enrollment.** A scholarship recipient whose continuous enrollment is interrupted for more than four (4) months but less than two (2) years for any reason but who intends to re-enroll in an eligible Idaho postsecondary educational institution must file a letter of intent to withdraw no later than sixty (60) days prior to the first day of the academic term of the discontinued attendance to the Office of the State Board of Education. Failure to do so may result in forfeiture of the scholarship. The Board's Executive Director or designee will review each request for interruption and notify the individual of approval or denial of the request. In addition, the individual must file a statement with the Board declaring his intent to re-enroll as a full-time undergraduate student in an academic or career technical program in an eligible Idaho postsecondary educational institution for the succeeding academic year no later than thirty (30) days prior to the first day of the academic term in which the individual intends to re-enroll within two (2) years of the approval of the request to withdraw. Failure to do so will result in forfeiture of the scholarship unless an extension has been granted. An extension of interruption of continuous enrollment period may be granted for eligible students due to military service in the United States armed forces, medical circumstances, or other circumstances approved by the executive director. All requests for extension must be made sixty (60) days prior to the start of the succeeding academic year.~~

(3-28-18)

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303. -- 399. (RESERVED)

400. RESPONSIBILITIES OF ELIGIBLE IDAHO POSTSECONDARY EDUCATIONAL INSTITUTIONS.

01. Statements of Continuing Eligibility. An eligible Idaho postsecondary educational institution participating in this Opportunity Scholarship Program must submit statements of continuing student eligibility to the Board by the 30th day after the end of each academic year. Such statements must include verification that the scholarship recipient is still enrolled, attending part-time if an Adult Learner and full-time for all other scholarship recipients, maintaining satisfactory academic progress, and has not exceeded the award eligibility terms. ~~(3-9-16)~~
)

02. Other Requirements. An eligible Idaho postsecondary educational institution must: (4-2-08)

a. Be eligible to participate in Federal Title IV financial aid programs, and must supply documentation to the Board verifying this eligibility, and prompt notification regarding any changes in this status; (4-2-08)

b. Have the necessary administrative computing capability to administer the Opportunity Scholarship Program on its campus, and electronically report student data records to the Board; (4-2-08)

c. Provide data on student enrollment and federal, state, and private financial aid for students to the Board, and (4-2-08)

d. Agree to permit periodic Opportunity Scholarship Program audits to verify compliance with Idaho law and these rules related to the program. (4-2-08)

03. Adult Learner Evaluation. Upon admission, scholarship recipients receiving an award as an Adult Learner shall be administered prior learning assessments to determine eligibility for credit for prior learning including credit for prior experiential learning. As part of this process an eligible institution shall work with the student to develop a graduation plan for the program they are entering that includes estimated completion dates.

401. -- 500. (RESERVED)

501. APPEALS.

An opportunity scholarship applicant or recipient adversely affected by a decision made under provisions of these rules may file a written appeal of the decision within thirty (30) days following notice of the decision, and the written statement must include the basis for the appeal. Decisions based on specific requirements established in Idaho Code or these rules may not be appealed. The appeal must be submitted to the executive director of the Board. The office of the board shall acknowledge receipt of the appeal within seven (7) days. The executive director of the Board may or may not agree to review the action, or may appoint a subcommittee of three (3) persons to hear the appeal, including at least one (1) financial aid administrator at an eligible postsecondary educational institution in

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SUBJECT

Pending Rule, Docket Number 08-0201-1902 – Rules Governing Administration – Continuous Improvement Plans

REFERENCE

June 2015	Board approved a legislative idea to implement the Task Force subcommittee recommendation on continuous improvement plan reporting
August 2015	Board approved proposed rule 08.02.01.801 – Continuous Improvement Plans, updating the terms to bring the rule in alignment with legislative changes.
September 2015	Board approved legislation to implement the Task Force subcommittee recommendation on continuous improvement plan reporting
November 2015	Board approved pending rule 08.02.01.801 – Continuous Improvement Plans.
August 2016	Board approved temporary and proposed rule IDAPA 08.02.01.801 – Continuous Improvement Plans.
November 2016	Board approved pending rule, Docket 08-0201-1602.
August 2019	Board approved proposed rule, Docket 08-0201-1902

APPLICABLE STATUTE, RULE, OR POLICY

Sections 33-320, 33-1212A, and 33-1616, Idaho Code

BACKGROUND/DISCUSSION

During the 2016 legislative session amendments were made to the Continuous Improvement Plan requirements (Section 33-320, Idaho Code), Literacy Intervention Plan requirements (Section 33-1616, Idaho Code) and College and Career Advising Plan requirements (Section 33-1212A). These amendments set minimum reporting requirements for the Continuous Improvement Plans and tied the Literacy Improvement Plans and College and Career Advising Plan reporting to the Continuous Improvement Plans. The proposed amendments set out the statewide readiness and improvement metrics, literacy intervention plan requirements and reporting metrics, and college and career advising plan requirements and minimum metrics. The proposed amendments to IDAPA 08.02.01.801 in 2016 set out these minimum reporting metrics, as well as other reporting requirements. During the 2019 Legislative Session the Legislature enacted legislation that removed the reference to the grade range performance metrics and tied the annual progress reporting to the school and district accountability report cards. These statutory changes conflict with the language in IDAPA 08.02.02.801 making it necessary to remove the language from Administrative Code.

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In addition to these changes, as part of the rule review process required by the Red Tape Reduction Act two additional sections were identified that are now obsolete and are being proposed for removal. These are subsections 700 through 801, referencing Veterans Education, Idaho Penitentiary Programs, and Correspondence and Trade School Programs. All of these types of programs are now addressed through Idaho statute.

IMPACT

Approval of the pending rule will bring the rule in compliance with section 33-320, 1212A, and 33-1616, Idaho Code and provide the school districts guidance on the new reporting requirements.

ATTACHMENTS

Attachment 1 – Pending Rule, Docket Number 08-0201-1902

STAFF COMMENTS AND RECOMMENDATIONS

Administrative rules are made up of three types of rules, temporary rules, proposed rules and pending rules. Temporary and proposed rules may be promulgated jointly with a single docket number or temporary rules may be promulgated as a standalone rule. The Notice of Intent to Promulgate Rules was published in the July 6, 2019 (Vol 19-7) Idaho Administrative Rules Bulletin. Staff received no requests to participate in the formal negotiated rulemaking process. The proposed rule approved by the Board was published in the October 2, 2019 (Vol. 19-10) Administrative Rules bulletin. Staff received no comments during ensuing 21-day comment period. Once approved, pending rules will be submitted to the Department of Administration for publication in the Idaho Administrative Rules Bulletin and are then forwarded to the legislature for consideration. Pending rules become effective at the end of the legislative session in which they are submitted, if they are not rejected by the Legislature.

There have been no changes between the proposed and pending rule. Staff recommends approval.

BOARD ACTION

I move to approve the pending rule amendments, docket number 08-0201-1902, as submitted in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

IDAPA 08
TITLE 02
CHAPTER 01

08.02.01 – RULES GOVERNING ADMINISTRATION

(BREAK IN CONTINUITY OF SECTIONS)

651. -- ~~699800.~~ (RESERVED)

~~700. VETERANS EDUCATION.~~

~~The Governor of the state of Idaho has designated the State Department of Education as the approval agency in the State of Idaho for the purpose of approving courses for the enrollment of veterans and other eligible persons. (Sections 33-105; 33-107, Idaho Code) (4-1-97)~~

~~01. Responsibilities of State Approval Agency. The State Approval Agency carries the following responsibilities: (4-1-97)~~

~~a. Establishing criteria additional to requirements set forth in federal law for approving education or training programs. (4-1-97)~~

~~b. Approving education or training programs following the criteria set forth in federal law or established by the state approval agency. (4-1-97)~~

~~c. Regularly visiting and supervising those educational institutions and training establishments offering approved courses or programs. (4-1-97)~~

~~d. Disapproving any approved course or program that fails to meet requirements set forth in federal law or criteria established by the approval agency and notifying the affected institution or establishment and the Veterans Administration of this disapproval. (4-1-97)~~

~~e. Providing applicable approval information to educational institutions or training establishments and the Department of Veterans' Affairs. (4-1-97)~~

~~02. Regulations Incorporated by Reference. The Federal regulations of the U.S. Department of Veterans' Affairs as referred to by these regulations are incorporated herein and will have the same force and effect as if fully set forth. Copies of referred federal regulations may be obtained from the United States Veterans Administration, the State Department of Education, or the Idaho State Law Library. (4-1-97)~~

~~03. Definition. For the purposes of these rules, the following words and phrases will have these meanings: (4-1-97)~~

~~a. Approval: An institution or establishment desiring to offer a course or courses for which veterans may use veterans' educational benefits has met standards and requirements designed to ensure that such institution or establishment is qualified to provide satisfactory instruction in the course or courses to be offered. (4-1-97)~~

~~b. Accredited Course: A course which meets one (1) of the following requirements: the course has been accredited and approved by a nationally recognized agency or association; credit for such a course is approved by the State Department of Education for credit toward a high school diploma; the course is conducted under 20 U.S.C. 11-28 (Vocational Education); and the course is accepted by the State Department of Education for credit for a teacher's certificate or a teacher's degree. (4-1-97)~~

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~~_____ c. _____ Nonaccredited courses: Courses that are not approved as accredited courses and that are offered by a public or private, profit or nonprofit, educational institution. These include nonaccredited courses offered by extension centers or vocational or adult education departments in institutions of higher education. _____ (4-1-97)~~

~~_____ d. _____ Nationally recognized accrediting agency or association: One that appears on the list published by the Commissioner of Education as required by 38 U.S.C. 1775 (a). _____ (4-1-97)~~

~~_____ e. _____ Correspondence courses: Courses that must require no less than six (6) hours of preparation per week over any twenty six (26) week period and must require six (6) or more months to complete. No more than twenty percent (20%) of the students pursuing such a course should be able to complete the course in less than six (6) months for the normal length to be certified as six (6) months or more. The determination of this factor will be based upon the records of the school for the immediately preceding years. _____ (4-1-97)~~

~~_____ f. _____ Apprenticeship courses: Any training on the job course established as an apprenticeship course by a training establishment as defined in VA Regulations 14200(c) and approved as an apprenticeship course by the state approval agency. (4-1-97)~~

~~_____ g. _____ Other training on the job courses: Any training on the job that does not qualify as an apprenticeship course as defined in these regulations, but that otherwise meets the requirements of subparagraph C of VA Regulation 14262 as incorporated by reference herein. _____ (4-1-97)~~

~~_____ 04. _____ Eligibility for Receipt of Veterans' Educational Benefits. Any veteran enrolled in educational institutions or training establishments is eligible for educational benefits as provided by 38 U.S.C. Section 1771 et seq. To qualify for eligibility, the veteran must be in training in a course or courses approved for veteran's education by the state approval agency. _____ (4-1-97)~~

~~_____ 05. _____ Attainment of Approval Status. Attaining approval status requires that an institution or establishment desiring to offer courses for which veterans or other eligible persons may receive veterans' educational benefits meet standards designed to ensure that such an institution or establishment is qualified to provide satisfactory instruction in the course or courses to be offered. Approval of courses may be obtained upon compliance with the following requirements and standards: _____ (4-1-97)~~

~~_____ a. _____ Veterans will not be eligible for educational benefits for enrollment in any course offered by an educational institution when such a course has been in operation for less than two (2) years immediately prior to the date of enrollment as defined by VA regulation 14251(B). However, this requirement does not apply to the following courses: courses pursued in a public or tax supported educational institution; any course offered by an educational institution that has been in operation for more than two (2) years, if the course is similar in nature to a course previously offered by the institution; any course that has been offered by an institution for a period of more than two (2) years, notwithstanding the fact that the institution has moved to another location in the same general locality or where the school has made a complete move with substantially the same faculty, curricula, and students without a change in ownership; any course offered by a nonprofit school of college level and recognized for credit toward a standard college degree; and any course for the educationally disadvantaged offered by a proprietary nonprofit educational institution at the principal or branch location when the institution offering the course has been in operation for more than two (2) years. _____ (4-1-97)~~

~~_____ b. _____ Institutions or establishments desiring to enroll veterans or eligible persons in courses to which veterans' benefits may be applied must make written application for approval of such courses to the state approval agency. Because approval is granted on a course-by-course basis, the institution or establishment must include in the application all courses for which it seeks approval. Applications for approval of accredited courses must be in conformance with requirements set forth in VA Regulation 14253. Applications for approval of nonaccredited courses must be in conformance with and contain information required by VA Regulation 14254. Applications for approval of correspondence courses must conform with requirements set forth in VA Regulation 14256, in addition to the requirements of VA Regulations 14253 or 14254 as applicable. Applications for approval of apprenticeship courses must conform with and contain information required by VA Regulation 14261(B). Applications for approval of other~~

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~~training on the job courses must conform with and contain information required by VA Regulation 14262(B). Application for approval of flight training courses must conform with requirements set forth in VA Regulation 14263 and in particular VA Regulation 14263(F). (4-1-97)~~

~~c. When an institution or establishment applies for approval, it thereby consents to visits by a representative of the state approval agency. The purpose of such visits is to determine whether the applicant and the course or courses for which approval is sought comply with established approval criteria. (4-1-97)~~

~~d. Upon receipt of an application for approval conforming with the above referenced regulations, the state approval agency may, upon adequate investigation, approve the application when the course or courses to which the application pertains and the institution or establishment offering them are found to have met the following criteria: for accredited courses, criteria set forth in VA Regulation 14253(D) (E) or (F) as applicable; for nonaccredited courses, criteria set forth in VA Regulation 14254(C); for correspondence courses, criteria set forth in VA Regulation 14256, in addition to criteria set forth in VA Regulations 14253 or 14254 as applicable; for apprentice courses, criteria set forth in VA Regulation 14261(C); for other training on the job courses, criteria set forth in VA Regulation 14262(C); and for flight training courses, criteria set forth in VA Regulation 14263. Veterans who are basically eligible to receive educational assistance allowances under the provisions of Title 38, U.S.C. may receive educational assistance for flight training, if the individual also meets eligibility standards set forth in VA Regulation 14263(A). In addition, the state approving agency requires that students complete a minimum of thirty (30) hours of instruction per quarter to maintain such eligibility. (4-1-97)~~

~~06. **Notice of Approval.** Upon determining that an institution or establishment has complied with all the requirements for approval, the state approval agency will notify the institution or establishment by a letter setting forth the courses that have been approved and will furnish the VA with an official copy of the letter, attachments and any subsequent amendments. (4-1-97)~~

~~07. **Length of Time of Approval.** Approval of a course is for an indefinite period of time. However, the state approval agency may require that requests for continued approval be submitted on an annual basis with appropriate supporting documentation. Furthermore, any revision or change made in a course will require resubmission of the course for approval by the state approval agency. (4-1-97)~~

~~08. **Suspension or Withdrawal of Approval.** Continuing approval of a course or courses is contingent upon maintaining prescribed standards and conformance with requirements referred to above. (4-1-97)~~

~~a. In the event that the evidence of record establishes that the course fails to meet such requirements for approval, approval of the course for new enrollments may be suspended by the state approval agency for a period not to exceed sixty (60) days to allow the institution or establishment to meet the requirements for approval. (4-1-97)~~

~~b. The length of the suspension will not be for an indeterminate period but will be of a reasonable duration as determined by the state approval agency to be necessary for the institution or establishment to meet the requirements in light of the nature of the deficiencies. (4-1-97)~~

~~c. Prior to the effective date of the suspension, the state approval agency will give notice of the intended action to the affected institution or establishment which will include facts or circumstances on which the intended suspension is based and any available supporting documentation. The state approval agency will also afford to such institution or establishment, prior to the effective date of the suspension, a reasonable opportunity to show compliance with all lawful requirements for the retention of approval either by providing written support or through oral presentations to the appropriate agency officials. (4-1-97)~~

~~d. For those cases where a discrepancy has not been corrected at the time of the expiration date of a suspension period or in lieu of suspension for those cases where a discrepancy is so major as to substantially deprive the student of the protection afforded by the approval process or is of such a nature that it cannot be corrected within a period of sixty (60) days, the state approval agency will withdraw approval of the affected course or courses. (4-1-97)~~

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~~_____ e. _____ Prior to the effective date of the withdrawal of approval, notice of the agency's intended action will be provided to the affected institution or establishment, which will include a statement of the institution's right to a hearing, a statement of the authority and jurisdiction under which the hearing is to be held, a reference to the particular sections of statutes or rules involved, and a short and plain statement of the grounds upon which the intended action to withdraw approval is based. _____ (4-1-97)~~

~~_____ f. _____ An opportunity will be afforded the affected institution or establishment to respond to the agency's intended action and to present evidence and argument on all issues involved. A three (3) member hearing panel will be appointed by the executive officer of the state approval agency to review such appeal and submit recommended findings of fact and conclusions of law to the executive officer who will thereafter render a final decision in the matter. _____ (4-1-97)~~

~~_____ g. _____ Any final decision adverse to an institution or establishment will be in writing or stated in the record. The decision will include findings of fact and conclusions of law, separately stated. _____ (4-1-97)~~

~~_____ h. _____ The affected institution or establishment will be notified either personally or by mail of any decision; a copy of this document will be delivered or mailed forthwith to the institution or establishment and to its attorney of record upon request. _____ (4-1-97)~~

~~**701. -- 749. (RESERVED)**~~

~~**750. IDAHO STATE PENITENTIARY.**~~

~~The vocational and academic programs at the Idaho State Penitentiary will be approved on an annual basis as special programs for the purpose of training inmates. _____ (4-1-97)~~

~~**751. -- 799. (RESERVED)**~~

~~**800. PRIVATE CORRESPONDENCE AND TRADE SCHOOLS.**~~

~~Private correspondence and trade schools teaching any course, plan, or programs of instruction, whether conducted in person, by mail, or any other method, will register with the State Department of Education on forms approved by the Board, which are on file in the State Department of Education. (Chapter 24, Title 33, Idaho Code) _____ (4-1-97)~~

~~_____ **01. Cancellation Policy.** A student applicant may cancel his or her enrollment within seventy two (72) hours after midnight of the day on which the enrollment agreement is signed and receive a full refund of all monies paid to the school or its representative. The student will receive a minimum of seven (7) days in which to cancel the enrollment agreement and the seller may retain not more than fifty dollars (\$50). Accreditation allows an agent to keep one hundred dollars (\$100). _____ (4-1-97)~~

~~_____ **02. Cancellation of Enrollment.** For a student requesting cancellation of enrollment after starting the course, the charge made will be based on lessons completed or time spent and will be computed on the following prorated basis: fifty percent (50%) retention during the first quarter; seventy five percent (75%) retention during the second quarter; and one hundred percent (100%) retention during the third and fourth quarter. (A quarter means time reasonably expected for completion of one-fourth (1/4) of the course.) _____ (4-1-97)~~

~~_____ **03. Emergency Consideration.** In case of illness or accident, death in the family, or other circumstances beyond the control of the student, the student will be entitled to consideration, and the school will make a settlement that is reasonable and fair to both. _____ (4-1-97)~~

801. CONTINUOUS IMPROVEMENT PLANNING AND TRAINING.

In accordance with Section 33-320, Idaho Code, every local education agency (LEA) shall develop and maintain a strategic plan that includes a continuous improvement process focused on improving student performance of the LEA. (3-25-16)

01. Definitions.

(4-11-15)

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- a.** Administrator. As used in this section administrator means the superintendent of the school district or administrator of a charter school. (4-11-15)
- b.** Board. Board means the Idaho State Board of Education. (4-11-15)
- c.** Executive Director. Executive Director means the Executive Director of the Idaho State Board of Education. (4-11-15)
- d.** Local Education Agency Board. As used in this section local education agency or LEA Board means the board of trustees of a school district or board of directors of a charter school. (4-11-15)
- e.** Local Education Agency. As used in this section local education agency (LEA) means public school district or charter school. (4-11-15)
- f.** Continuous Improvement Plan. As used in this section, a continuous improvement plan focuses on annual measurable outcomes and the analysis of data to assess and prioritize needs and measure outcomes. (3-25-16)

02. Reimbursement Eligibility. LEA's may request reimbursement for training conducted pursuant to Section 33-320, Idaho Code. To be eligible for reimbursement the training and trainer must meet the following criteria: (4-11-15)

- a.** Training. The training must cover one (1) or more the follow subjects: (4-11-15)

 - i. Continuous improvement planning training. Continuous improvement planning training must include, but is not limited to, training on continuous process improvement, use and analysis of data, and methods for setting measurable targets based on student outcomes; (3-25-16)
 - ii. School finance; (4-11-15)
 - iii. Administrator evaluations, including, but not limited to, specifics on the Idaho state evaluation requirements and framework; (4-11-15)
 - iv. Ethics; or (4-11-15)
 - v. Governance. (4-11-15)
- b.** Documentation of Training. Training records shall be kept by the LEA showing: (4-11-15)

 - i. The length of the training in hours; (4-11-15)
 - ii. The subject(s) covered by the training; (4-11-15)
 - iii. The participants included in the training or validation of attendance of specific participants as applicable; and (4-11-15)
 - iv. The curriculum, agenda, or other documentation detailing the content of the training. (4-11-15)
- c.** Training Format. A majority of the LEA board and the administrator must collaborate on the continuous improvement plan and engage students, parents, educators and the community, as applicable to the training subject and format. The training facilitator must be physically present or have the ability to interact directly with all training participants. Sufficient time must be provided during the sessions to give the participants an opportunity to

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discuss issues specific to the LEA. (3-25-16)

d. Trainer Qualifications. The trainer must meet the following qualifications: (4-11-15)

i. May not be a current employee of the LEA; (4-11-15)

ii. Must have two (2) years of documented training experience in the area of training being provided for the LEA; and (4-11-15)

iii. Must provide at least three (3) recommendations from individuals who participated in past training sessions conducted by the trainer. These recommendations must be included with the application to determine the trainer's qualifications. (4-11-15)

e. Qualified Trainers. Trainer qualifications will be determined by the Office of the State Board of Education. The State Board of Education will maintain a list of qualified trainers and the subject areas in which they are qualified. (4-11-15)

i. An individual or company may submit an application for consideration to be placed on the list of qualified trainers or the LEA may submit the application on behalf of the individual or company. (4-11-15)

ii. Applications must be submitted to the Executive Director in a format established by the Executive Director.(4-11-15)

iii. Trainer qualifications must be determined prior to the LEA's request for reimbursement of training costs. (4-11-15)

03. Audit. If requested, LEA's must provide training documentation or other information to verify eligibility prior to reimbursement. (4-11-15)

~~**04. Statewide Continuous Improvement Measures.** Multiple measures must be used to fully determine student readiness and improvement. At a minimum each continuous improvement plan shall include the following statewide student readiness and improvement metrics. The benchmark for each metric shall be set by the LEA. (3-22-17)~~

~~**a.** The college and career readiness metric shall be the number and percentage of students meeting the college ready benchmark in mathematics and English Language Arts on a state recognized college entrance exam. Improvement shall be measured by year over year growth in the percentage of students meeting the college readiness benchmark. This measure may be broken out by students pursuing a career technical track and non career technical track students. Career technical track student's readiness will be measured based on students receiving an industry recognized certification or passage of a Division of Career Technical Education recognized workplace readiness assessment. (3-22-17)~~

~~**b.** The high school readiness metric shall be the number and percentage of students meeting proficient or advanced on the grade eight (8) Idaho standards achievement test in mathematics and English language usage. Improvement shall be measured by year over year growth in the percentage of students scoring proficient or advanced. (3-22-17)~~

~~**c.** The grade seven (7) readiness metric shall be the number and percentage of students meeting proficient or advanced on the grade six (6) Idaho standards achievement test in mathematics and English language usage. Improvement shall be measured by year over year growth in the percentage of students scoring proficient or advanced. (3-22-17)~~

~~**d.** The grade four (4) reading readiness metric shall be the number and percentage of students reading at grade level on the spring grade three (3) statewide reading assessment. Improvement shall be measured by year over year growth in the percentage of students scoring at grade level. (3-22-17)~~

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~~e. The grade three (3) reading readiness metric shall be the number and percentage of students reading at grade level on the spring grade two (2) statewide reading assessment. Improvement shall be measured by year over year growth in the percentage of students scoring at grade level. (3-22-17)~~

~~f. The grade two (2) reading readiness metric shall be the number and percentage of students reading at grade level on the spring grade one (1) statewide reading assessment. Improvement shall be measured by year over year growth in the percentage of students scoring at grade level. (3-22-17)~~

~~g. The grade one (1) reading readiness metric shall be the number and percentage of students reading at grade level on the spring kindergarten statewide reading assessment. Improvement shall be measured by year over year growth in the percentage of students scoring at grade level. (3-22-17)~~

0504. Annual Literacy Intervention Plan. Annually each LEA will report on the effectiveness of the LEA's literacy intervention plan. Plans and reports are due by October 1 of each year. Plans shall include at a minimum: (3-22-17)

- a. Projected literacy plan budget for the current school year; (3-22-17)
- b. Metrics chosen by the LEA to determine effectiveness of the literacy plan and annual performance benchmarks; and (3-22-17)
- c. Performance on metrics chosen to show program effectiveness for at a minimum the previous academic year. (3-22-17)

0605. College and Career Advising and Mentoring Plans. Annually each LEA shall submit their college and career advising and mentoring plan to the State Board of Education by October 1. (3-22-17)

- a. Plans shall include required metrics and at least one (1) or more additional metrics chosen by the LEA to determine effectiveness of the college and career advising and mentoring plan, baseline data and annual benchmarks. (3-22-17)
- b. Performance on all effectiveness metrics shall be reported annually in the LEA's Continuous Improvement Plan annual report. (3-22-17)
- c. At a minimum effectiveness metrics must include: (3-22-17)
 - i. Percent of learning plans reviewed annually by grade level, in grade nine (9) through grade twelve (12); (3-22-17)
 - ii. Number and percent of students who go on to some form of postsecondary education one (1) and two (2) years after graduation; and (3-22-17)
 - iii. Number of students graduating high school with a career technical certificate or an associate degree. (3-22-17)

802. LITERACY GROWTH TARGETS.

01. Statewide Trajectory Growth Targets. Statewide trajectory annual growth targets are based on aggregated student performance on the spring administration of the statewide reading assessments. Local growth targets are set by the LEA based on the LEA's available resources and student demographics. Statewide trajectory growth targets indicated the statewide goal for year over year increases in the percentage of students reading at grade level. (3-29-17)

- a. Year one (1) and two (2): (3-29-17)

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- i. Kindergarten -- one percent (1%). (3-29-17)
- ii. Grade one (1) -- one percent (1%). (3-29-17)
- iii. Grade two (2) -- one percent (1%). (3-29-17)
- iv. Grade three (3) -- one percent (1%). (3-29-17)
- b.** Year three (3), four (4), five (5), and six (6): (3-29-17)
 - i. Kindergarten -- one point eight percent (1.8%). (3-29-17)
 - ii. Grade one (1) -- two percent (2%). (3-29-17)
 - iii. Grade two (2) -- one point six percent (1.6%). (3-29-17)
 - iv. Grade three (3) -- one point two percent (1.2%). (3-29-17)

02. Annual Review. The State Board of Education will review the statewide student proficiency levels and the statewide trajectory growth targets annually. (3-29-17)

803. STATEWIDE AVERAGE CLASS SIZE.

For the purpose of determining the statewide average class size used in school district staff allowance calculations, school districts shall be grouped as follows: (3-29-17)

01. Group 1. Group 1 shall consist of school districts with an elementary divisor, pursuant to Section 33-1004, Idaho Code, of twenty (20) for grades one (1) through three (3) and twenty-three (23) for grades four (4) through six (6), and a secondary divisor of eighteen point five (18.5.) (3-29-17)

02. Group 2. Group 2 will consist of school districts with an elementary divisor, pursuant to Section 33-1004, Idaho Code, of twenty (20) for grades one (1) through three (3) and twenty-three (23) for grades four (4) through six (6), and a secondary divisor less than eighteen point five (18.5.) (3-29-17)

03. Group 3. Group 3 will consist of school districts with elementary divisors, pursuant to Section 33-1004, Idaho Code, of nineteen (19) or twenty (20) for grades one (1) through six (6), and a secondary divisor of less than eighteen point five (18.5.) (3-29-17)

04. Group 4. Group 4 will consist of school districts with elementary divisors, pursuant to Section 33-1004, Idaho Code, of less than nineteen (19) for grades one (1) through six (6), and a secondary divisor of less than eighteen point five (18.5.) (3-29-17)

804. -- 999. (RESERVED)

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SUBJECT

Pending Rule, Docket Number 08-0202-1903 – Rules Governing Uniformity – Juvenile Detention Centers

REFERENCE

August 2019 Board approved proposed rule, docket 08-0202-1903, removing an outdated subsection of administrative rule regarding juvenile corrections that is governed by Idaho Statute.

APPLICABLE STATUTE, RULE, OR POLICY

Section 33-2009, Idaho Code
Executive Order 2019-02

BACKGROUND/DISCUSSION

Section 33-2009, Idaho Code, requires each public school within the state to provide educational services to students held in juvenile detention centers within their attendance area. As part of the Administrative Code review mandated by Executive Order 2019-02, two references were identified in IDAPA 08.02.02 referencing federal definitions were identified as unnecessary and obsolete. The proposed amendments remove these two definitions from Administrative Code.

IMPACT

Approval of the pending rule will bring the rule in alignment with Section 33-2009, Idaho Code and remove obsolete language from Administrative Code.

ATTACHMENTS

Attachment 1 – Pending Rule, Docket Number 08-0202-1903

STAFF COMMENTS AND RECOMMENDATIONS

Administrative rules are made up of three types of rules, temporary rules, proposed rules and pending rules. Temporary and proposed rules may be promulgated jointly with a single docket number or temporary rules may be promulgated as a standalone rule. The Notice of Intent to Promulgate Rules was published in the July 6, 2019 (Vol 19-7) Idaho Administrative Rules Bulletin. Staff received no requests to participate in the formal negotiated rulemaking process. The proposed rule approved by the Board was published in the October 2, 2019 (Vol. 19-10) Administrative Rules bulletin. Staff received no comments during ensuing 21-day comment period. Once approved, pending rules will be submitted to the Department of Administration for publication in the Idaho Administrative Rules Bulletin and are then forwarded to the legislature for consideration. Pending rules become effective at the end of the legislative session in which they are submitted, if they are not rejected by the Legislature.

There were no changes between the proposed and pending rule stages. Staff recommends approval.

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BOARD ACTION

I move to approve the pending rule amendments, docket number 08-0202-1903, as submitted in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

IDAPA 08
TITLE 02
CHAPTER 02

08.02.02 – RULES GOVERNING UNIFORMITY

(BREAK IN CONTINUITY OF SECTIONS)

240. JUVENILE DETENTION CENTERS.

~~01. Definition of Terms. (4-1-97)~~

~~a. Juvenile Detention Centers: Facilities that provide for the temporary care of children, as defined in the Juvenile Justice Reform Corrections Act, who require secure custody, for their own or the community's protection, in physically restricting facilities pending court disposition or subsequent to court disposition. (Section 33-2009, Idaho Code) (4-1-97)~~

~~b. Juvenile Offender: A person, as defined in the Juvenile Justice Reform Act, who has been petitioned or adjudicated for a delinquent act that would constitute a felony or misdemeanor if committed by an adult. (4-1-97)~~

02. Instructional Program. Every public school district in the state within which is located a public or private detention facility housing juvenile offenders pursuant to court order will provide an instructional program. The instructional program will: (4-1-97)

- a. Provide course work that meets the minimum requirements of Idaho State Board of Education Rules. (4-1-97)
- b. Provide instruction in ~~the core of instructions~~ subject areas. (4-1-97)
- c. Include the following components, where appropriate: self-concept improvement, social adjustment, physical fitness/personal health, vocational/occupational, adult living skills, and counseling. (4-1-97)
- d. Provide instruction and guidance that may lead to a high school diploma. School districts will accept such instruction for purposes of issuing credit when the detention center certifies to the school that the appropriate work is completed. (4-1-97)
- e. Be directed by an instructor who holds an appropriate, valid certificate. (4-1-97)
- f. Be provided to each student not later than two (2) school days after admission and continue until the student is released from the detention center. (4-1-97)
- g. Be provided to students who have attained "school age" as defined in Idaho Code 33-201. (4-1-97)
- h. Be provided for a minimum of four (4) hours during each school day. (4-1-97)
- i. Be based on the needs and abilities of each student. The resident school district will provide pertinent status information as requested by the Juvenile Detention Center. (4-1-97)
- j. Be coordinated with the instructional program at the school the student attends, where appropriate. (4-1-97)
- k. Be provided in a facility that is adequate for instruction and study. (4-1-97)

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03. State Funding of Instructional Programs at Juvenile Detention Centers. (4-1-97)

a. Every student housed in a juvenile detention center pursuant to court order and participating in an instructional program provided by a public school district will be counted as an exceptional child by the district for purposes of state reimbursement. (4-1-97)

b. Public school districts that educate pupils placed by Idaho court order in juvenile detention centers will be eligible for an allowance equivalent to the previous year's certified local annual tuition rate per pupil. The district allowance will be in addition to support unit funding and included in the district apportionment payment. (4-1-97)

c. To qualify for state funding of instructional programs at Juvenile Detention Centers, school districts must apply for such funding on forms provided by the State Department of Education. Applications are subject to the review and approval of the State Superintendent of Public Instruction. School districts will submit attendance and enrollment reports as required by the State Superintendent of Public Instruction. Juvenile Detention Centers will submit reports to the local school district as required. (4-1-97)

241. -- 999. (Reserved)

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DIVISION OF CAREER TECHNICAL EDUCATION

SUBJECT

Pending Rule Docket No. 08-0203-1901, Rules Governing Thoroughness, Incorporated by Reference - Career Technical Education Program Content Standards

REFERENCE

June 2016	Board approved the career technical secondary program standards.
August 2016	Board approved proposed rule incorporating career technical content standards into Administrative Code.
November 28, 2016	Board approved pending rule incorporating career technical content standards into Administrative Code.
August 31, 2017	Board approved proposed rule incorporating additional career technical content standards into Administrative Code.
November 2017	Board approved pending rule incorporating career technical content standards into Administrative Code.
August 2018	Board approved proposed rule Docket 08-0203-1804, incorporating career technical content standards into Administrative Code.
November 2018	Board approved pending rule Docket 08-0203-1804, incorporating career technical content standards into Administrative Code.
August 2019	Board approved content standards and proposed rule incorporating additional these career technical content standards into Administrative Code.

APPLICABLE STATUTE, RULE, OR POLICY

Section 33-118, Idaho Code, Section 33-1612, Idaho Code, Section 33-2211, Idaho Code
Idaho Administrative Code, IDAPA 08.02.03, Rules Governing Thoroughness

BACKGROUND/DISCUSSION

Similar to academic programs, content standards exist for secondary career technical programs. These content standards are developed with secondary and postsecondary instructors and industry representatives by the Division of Career Technical Education (Division). Postsecondary instructors provide guidance into the postsecondary program alignment, and industry representatives validated the outcomes with current needs of the particular industry occupations supported by the program.

Once the career technical standards and student learning outcomes are developed and vetted through the initial development team, the learning outcomes are shared

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with a larger group of industry representatives. The Division asks industry representatives to rank each learning outcome as to their importance in the workplace. Each learning outcome is then scored and reflected in the program's technical skills assessment based on the level of criticality established by the representative community.

Each career technical program is evaluated regularly by the Division and held to these standards. Prior to 2016 these standards were standalone documents updated and maintained by the Division. To be consistent with the academic content standards, during the 2016 rulemaking the Division started the process of bringing the career technical content standards forward for incorporation into Administrative Code. The standards being considered this year add or updated the following subcategories into the current content standard areas:

- Agriculture and Natural Resources
 - Food Science and Processing Technology - new
- Business and Marketing Education
 - Hospitality Management - new
- Engineering and Technology
 - Computer Support - updated
- Health Sciences
 - Rehabilitation Services - new
- Skilled and Technical Sciences
 - Electrical Apprenticeship – new
 - HVAC Apprenticeship – new
 - Plumbing Apprenticeship - new

IMPACT

Approval of the pending rule changes will add additional career technical education subcategories into the existing content standard areas and update content standards previously approved by the Board.

ATTACHMENTS

Attachment 1 – Pending Rule Docket No. 08-0203-1901

STAFF COMMENTS AND RECOMMENDATIONS

The notice of intent to promulgate this rule was published in the July 6, 2019 (Vol.19-7) Administrative Bulletin. No requests were received to negotiate this rule beyond the Division's initial process. The proposed rule approved by the Board was published in the October 2, 2019 (Vol. 19-10) Administrative Rules bulletin. Staff received no comments during ensuing 21-day comment period. Once approved, pending rules will be submitted to the Department of Administration for publication in the Idaho Administrative Rules Bulletin and are then forwarded to the legislature for consideration. Pending rules become effective at the end of the legislative session in which they are submitted, if they are not rejected by the Legislature.

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There have been no changes between the proposed and pending rule. Staff recommends approval.

BOARD ACTION

I move to approve pending rule docket 08-0203-1901, as submitted in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

IDAPA 08
TITLE 02
CHAPTER 03

08.02.03 – RULES GOVERNING THOROUGHNESS

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated into this rule: (3-30-07)

01. The Idaho Content Standards. The Idaho Content Standards as adopted by the State Board of Education. Individual subject content standards are adopted in various years in relation to the curricular materials adoption schedule. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-29-10)

- a.** Arts and Humanities Categories: (3-24-17)
 - i.** Dance, as revised and adopted on August 11, 2016; (3-24-17)
 - ii.** Interdisciplinary Humanities, as revised and adopted on August 11, 2016; (3-24-17)
 - iii.** Media Arts, as adopted on August 11, 2016. (3-24-17)
 - iv.** Music, as revised and adopted on August 11, 2016; (3-24-17)
 - v.** Theater, as revised and adopted on August 11, 2016; (3-24-17)
 - vi.** Visual Arts, as revised and adopted on August 11, 2016; (3-24-17)
 - vii.** World languages, as revised and adopted on August 11, 2016. (3-24-17)
- b.** Computer Science, adopted on November 28, 2016. (3-24-17)
- c.** Driver Education, as revised and adopted on August 10, 2017. (3-28-18)
- d.** English Language Arts/Literacy, as revised and adopted on November 28, 2016. (3-24-17)
- e.** Health, as revised and adopted on August 11, 2016. (3-24-17)
- f.** Information and Communication Technology, as revised and adopted on August 10, 2017. (3-28-18)
- g.** Limited English Proficiency, as revised and adopted on August 21, 2008. (3-29-10)
- h.** Mathematics, as revised and adopted on August 11, 2016. (3-24-17)
- i.** Physical Education, as revised and adopted on August 11, 2016. (3-24-17)
- j.** Science, as revised and adopted on August 10, 2017. (3-28-18)
- k.** Social Studies, as revised and adopted on November 28, 2016. (3-24-17)
- l.** College and Career Readiness Competencies adopted on June 15, 2017. (3-28-18)

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ATTACHMENT 1

- m. Career Technical Education Categories: (3-29-17)
- i. Agricultural and Natural Resources, as revised and adopted on August ~~16, 2018~~29, 2019. (4-11-19)
- ii. Business and Marketing Education, as revised and adopted on August ~~31, 2017~~29, 2019. (3-28-18)
- iii. Engineering and Technology Education, as revised and adopted on August ~~16, 2018~~29, 2019. (4-11-19)
- iv. Health Sciences, as adopted on August ~~16, 2018~~29, 2019. (4-11-19)
- v. Family and Consumer Sciences, as revised and adopted on August 16, 2018. (4-11-19)
- vi. Skilled and Technical Sciences, as revised and adopted on August ~~16, 2018~~29, 2019. (4-11-19)
- vii. Workplace Readiness, as adopted on June 16, 2016. (3-29-17)

02. The English Language Development (ELD) Standards. The World-Class Instructional Design and Assessment (WIDA) 2012 English Language Development (ELD) Standards as adopted by the State Board of Education on August 16, 2012. Copies of the document can be found on the WIDA website at www.wida.us/standards/eld.aspx. (4-4-13)

03. The Idaho English Language Proficiency Assessment (ELPA) Achievement Standards. The Idaho English Language Proficiency Assessment (ELPA) Achievement Standards as adopted by the State Board of Education on October 18, 2017. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)

04. The Idaho Standards Achievement Tests (ISAT) Achievement Level Descriptors. Achievement Level Descriptors as adopted by the State Board of Education on April 14, 2016. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-29-17)

05. The Idaho Extended Content Standards. The Idaho Extended Content Standards as adopted by the State Board of Education on August 10, 2017. Copies of the document can be found at the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)

06. The Idaho Content Standards Core Content Connectors. The Idaho Content Standards Core Content Connectors as adopted by the State Board of Education on August 10, 2017. Copies of the document can be found at the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)

- a. English Language Arts, as adopted by the State Board of Education on August 10, 2017. (3-28-18)
- b. Mathematics, as adopted by the State Board of Education on August 10, 2017. (3-28-18)

07. The Idaho Alternate Assessment Achievement Standards. Alternate Assessment Achievement Standards as adopted by the State Board of Education on October 18, 2017. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)

08. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Deaf or Hard of Hearing. As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (4-2-08)

09. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Blind or Visually Impaired. As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found

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on the State Board of Education website at <https://boardofed.idaho.gov>.

(4-2-08)

10. The Idaho Special Education Manual. The Idaho Special Education Manual as adopted by the State Board of Education on October 17, 2018. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>.

(4-11-19)

(BREAK IN CONTINUITY OF SECTIONS)

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 26, 2019

SUBJECT

Pending Rule Docket 08-0203-1902, Rules Governing Thoroughness, Data Collection

REFERENCE

August 2017	Board approved proposed rule adding GPA to the state longitudinal data system.
November 2017	Board approved pending rule adding GPA.
August 2019	Board approved proposed rule adding chronic absenteeism to the state longitudinal data system

APPLICABLE STATUTE, RULE, OR POLICY

Sections 33-133 and 33-1626, Idaho Code
Idaho Administrative Code, IDAPA 08.02.03, Rules Governing Thoroughness, subsection 115 Data Collection

BACKGROUND/DISCUSSION

Pursuant to Section 33-133, Idaho Code, the state “data system” is made up of the state’s elementary, secondary and postsecondary longitudinal data system, additionally any new “personally identifiable student data” added to the data system must be approved by the Governor and the legislature. New data points may be added on a provisional basis, however, to remain in the system as an ongoing data element the data element must be approved. Approval is accomplished through the administrative rule making process. Section 33-133, Idaho Code requires “the Idaho State Board of Education must submit any new provisional student data collection to the governor and the legislature for their approval within one (1) year in order to make the new student data a permanent requirement through the administrative rule process...”

School districts and charter schools have been required to report to the US Department of Education data on student absenteeism. This last year US Department of Education changed the process for reporting this data and now request it be reported through the state reporting mechanism. This data was reported through Department in 2018, in order to continue to meet the federal reporting requirement for chronic absenteeism this data element needs to be added through the administrative rule process to IDAPA 08.02.03.

IMPACT

Should the pending rule be approved by the Board and accepted by the legislature it will add chronic absenteeism as an ongoing data element in the state longitudinal data system.

ATTACHMENTS

Attachment 1 – Pending Rule Docket 08-0203-1902

**PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
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STAFF COMMENTS AND RECOMMENDATIONS

This is a data element that has been historically reported directly by school districts and charter schools to the US Department of Education. Addition of the element to the state longitudinal data system does not create a new reporting requirement for school districts and charter schools. The data element is now reported to the Department of Education in conjunction with other state reporting data reporting requirements.

The proposed rule approved by the Board was published in the October 2, 2019 (Vol. 19-10) Administrative Rules bulletin. Staff received no comments during ensuing 21-day comment period. Once approved, pending rules will be submitted to the Department of Administration for publication in the Idaho Administrative Rules Bulletin and are then forwarded to the legislature for consideration. Pending rules become effective at the end of the legislative session in which they are submitted, if they are not rejected by the Legislature.

There have been no changes between the proposed and pending rule. Staff recommends approval.

BOARD ACTION

I move to approve pending rule Docket 08-0203-1902, as submitted in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

IDAPA 08
TITLE 02
CHAPTER 03

08.02.03 – RULES GOVERNING THOROUGHNESS

(BREAK IN CONTINUITY OF SECTIONS)

115. DATA COLLECTION.

The State Department of Education will collect the required information from participating school files for state and federal reporting and decision-making. The enrollment collection will contain information about the enrollment of the student attributes such as unique student identifier, active special education, Limited English Proficient (LEP), migrant, grade level, gender, race, and free/reduced lunch status. The collection will be done in ~~mid-October, early February, and May (end of the testing window)~~ in accordance with the reporting requirements established in chapter 10, Title 33 or as needed for state and federal accountability purposes. Each participating school is required to verify and assure the accuracy of the data submitted in the files. (5-8-09)

01. State Data System. In accordance with the provisions of Section 33-133, Idaho Code, the following data elements will be added to the state data system: (3-28-18)

a. Grade Point Average (GPA). (3-28-18)

b. Chronic Absenteeism ()

(BREAK IN CONTINUITY OF SECTIONS)

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 26, 2019

SUBJECT

Pending Rule – Docket No. 08-0204-1901, Rules Governing Public Charter Schools

APPLICABLE STATUTE, RULE, OR POLICY

Idaho Administrative Code, IDAPA 08.02.04, Rules Governing Public Charter Schools
Chapter 52, Title 33, Idaho Code

BACKGROUND/DISCUSSION

Pursuant to Section 33-5207, Idaho Code, the charter school authorizing entity is required to review the performance certificate and take affirmative action to renew a charter school's charter. We had one instance where a school district did not review a charter schools performance certificate this last year prior to the expiration of the charter. While the situation was rectified and the charter school in question was renewed, the situation identified the need to provide clarifying language on the status of the charter school if this should happen in the future.

This rule will add language to the charter renewal and performance certificate review process to clarify that a charter school who has met all of its performance certificate targets will be provisionally renewed until such time as the chartering entity can act. This will provide stability for the charter school while they are waiting for the chartering entity to take action.

IMPACT

The pending rule will provide clarification to charter schools on what their status is while they are waiting for authorizer renewal.

ATTACHMENTS

Attachment 1 – Pending Rule Docket No. 08-0204-1901

STAFF COMMENTS AND RECOMMENDATIONS

Administrative rules are made up of three types of rules, temporary rules, proposed rules and pending rules. Temporary and proposed rules may be promulgated jointly with a single docket number or temporary rules may be promulgated as a standalone rule. The rulemaking process is initiated by the publication of a Notice of Intent. The Notice of Intent to Promulgate Rules for this rule was published in the July 6, 2019 (Vol 19-7) Idaho Administrative Rules Bulletin. Staff received no requests to participate in the formal negotiated rulemaking process. The proposed rule approved by the Board was published in the October 2, 2019 (Vol. 19-10) Administrative Rules bulletin. Staff received no comments during ensuing 21-day comment period. Once approved, pending rules will be submitted to the Department of Administration for publication in the Idaho Administrative Rules Bulletin and are then forwarded to the legislature for consideration. Pending rules become effective at the end of the legislative session in which they are submitted, if they are not rejected by the Legislature.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
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There have been no changes between the proposed and pending rule. Staff recommends approval.

BOARD ACTION

I move to approve pending rule – Docket No. 08-0204-1901, as submitted in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

IDAPA 08
TITLE 02
CHAPTER 04

08.02.04 – RULES GOVERNING PUBLIC CHARTER SCHOOLS

(BREAK IN CONTINUITY OF SECTIONS)

301. AUTHORIZED CHARTERING ENTITY RESPONSIBILITIES.

01. Monitoring. Notwithstanding Section 300 of these rules, the authorized chartering entity of a public charter school shall be responsible for monitoring the public charter school's operations in accordance with all of the terms and conditions of the performance certificate. (3-20-14)

02. Performance Certificate Review. Pursuant to Section 33-5209B, Idaho Code, an authorized chartering entity may renew or nonrenew a charter for a term of five (5) years following the initial three (3) year term. Should a chartering entity take no action to renew or nonrenew the charter, and the charter schools has met all of the existing performance certificate targets, the charter school shall be provisionally renewed until such time as the chartering entity takes action. The five (5) year term of the renewed charter shall be based on the provisional renewal date.

(BREAK IN CONTINUITY OF SECTIONS)

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 26, 2019

SUBJECT

Pending Rule Docket 55-0000-1900, Division of Career Technical Schools

REFERENCE

April 2019

Board received update on impact of legislature not extending codified rules after June 30, 2019.

May 2019

Board approved temporary and proposed rules, initiating the process for re-establishing previously codified administrative code.

BACKGROUND/DISCUSSION

Each year Idaho's codified administrative code is scheduled to expire on June 30th. As part of the legislature's annual duties during the legislative session they consider a bill to extend the codified rules, including those not rejected during the legislative session, until June 30th of the following year. During the 2019 Legislative Session, this bill did not pass, so all currently codified rules are scheduled to expire on June 30, 2019. To mitigate the potential chaos this could cause and ensuing potential liability to the state for not implementing many provision required by statute or the state constitution, the Governor has authorized the approval of temporary and proposed rules through an omnibus process that would reinstate the rules on a temporary basis effective July 1, 2019 and start the rule promulgation process with a temporary and proposed rule for each section of the Idaho Administrative Procedures Act (IDAPA). As part of this process, agencies also have the opportunity to identify any outdated or unneeded titles of rules and allow them to expire.

Each section of Administrative Code is divided by an IDAPA number, then title and chapter. As an example, IDAPA 08.02.01 is IDAPA 08, Title 02, Chapter 01. Administrative rules promulgated by the Board of Education encompass three sections of IDAPA including 22 chapters. Four chapters are found in IDAPA 55 pertaining to Career Technical Education. Two chapters are found in IDAPA 47 and pertain to Vocational Rehabilitation. Sixteen chapters are found in IDAPA 08 and pertain to all other public education. Board staff have identified eight chapters that could be allowed to expire, one of which would be moved to Board policy with a first reading scheduled for the June regular Board meeting. Any other negotiated rulemaking initiated this year will be required to follow the normal negotiated rulemaking process with the publication of a notice of intent, negotiation with interested parties, followed by a proposed rule being brought to the Board at the June or August Regular Board meetings for consideration. All approved proposed rules are then published in the administrative bulletin, which then triggers a 21-day public commit period. All pending rules, including those approved through this process will be brought back to the Board for consideration at the close of the 21-day public comment period.

Docket 55-0000-1900 re-established IDAPA 55 Division of Career Technical Education

- 55.01.03, Rules of Career Technical Schools

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 26, 2019

- 55.01.04, Rules governing Idaho Quality Program Standards Incentive Grants and Agricultural Education Program Start-up Grants

IDAPA 55.01.03, Rules of Career Technical Schools sets out the formula for the distribution of funding to Career Technical Schools authorized pursuant to Section 33-1002G, Idaho Code, should Docket 55-0103-1901 be accepted by the 2020 Legislature this section would be replaced by the new funding distribution model. IDAPA 55.01.04 is required pursuant to the Section 33-1629, Idaho Code, and provides the process for eligible programs to access funds appropriated for the Idaho Quality Program Standards Incentive Grants and Agricultural Education Program Start-up Grants.

IMPACT

Approval of the pending omnibus rules will allow the currently codified education rules to be submitted to the 2020 Legislature for consideration.

ATTACHMENTS

Attachment 1 – Pending Rule Docket 55-0000-1900

STAFF COMMENTS AND RECOMMENDATIONS

The proposed rule was published in June 19, 2019 (Vol.12-6SE) Administrative Rules bulletin. Staff received no comments during the ensuing 21-day comment period. Once approved, pending rules will be submitted to the Department of Administration for publication in the Idaho Administrative Rules Bulletin and are then forwarded to the legislature for consideration. Pending rules become effective at the end of the legislative session in which they are submitted, if they are not rejected by the Legislature.

There have been no changes between the proposed and pending rule. Staff recommends approval.

BOARD ACTION

I move to approve pending rule Docket 55-0000-1900 as provided in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

IDAPA 55
TITLE 01
CHAPTER 03

IDAPA 55 – DIVISION OF CAREER TECHNICAL EDUCATION

55.01.03 – RULES OF CAREER TECHNICAL SCHOOLS

000. LEGAL AUTHORITY.

The State Board of Education is designated as the State Board for Career Technical Education and is responsible to execute the laws of the state of Idaho relative to career technical education, administer state and federal funds, and through the administrator of the State Division of Career Technical Education, coordinate all efforts in career technical education (Section 33-2202 through 33-2212, Idaho Code). (3-30-01)

001. TITLE AND SCOPE.

01. Title. The rules are titled IDAPA 55.01.03, “Rules of Career Technical Schools.” (3-30-01)

02. Scope. These rules serve the administration of Career Technical Education in Idaho and define the duties of the State Division of Career Technical Education. (3-30-01)

002. WRITTEN INTERPRETATIONS.

Written interpretations of these rules, if any, are on file at the office of the State Division of Career Technical Education. (3-30-01)

003. ADMINISTRATIVE APPEALS.

All appeals under these rules will be conducted pursuant to the procedures set forth by the State Board of Career Technical Education. (3-30-01)

004. (RESERVED)

005. DEFINITIONS.

01. Administrator. A designated school administrator, holding a career technical administrator certificate pursuant to IDAPA 08.02.02, “Rules Governing Uniformity,” Section 015, and who oversees and monitors the career technical school programs and is responsible for ensuring the school meets all applicable federal, state, and local school district regulations, rules, and policies. (3-28-18)

02. Attendance Zones. For purposes of Section 33-1002G, Idaho Code, each high school is classified as an attendance zone. The attendance zone requirement can be met by having students from at least two (2) high school zones within a district or at least two (2) high school zones in different districts participate in the career technical school. A minimum of fifteen percent (15%) of the total student body must reside in attendance zones apart from the attendance zone of the majority of students. Cooperative Service Agencies must meet the fifteen percent (15%) attendance criteria on a program-by-program basis. (3-30-01)

03. Capstone Course. A culminating course that requires students to demonstrate the knowledge and skills learned throughout their program of study. (3-28-18)

04. Career Technical Schools. Schools designed to provide high-end, state-of-the-art technical programs that foster quality technical education through intermediate and capstone courses. Programs and services are directly related to the preparation of high school students for employment in current or emerging occupations that require other than a baccalaureate or advanced degree. These schools are closely linked to postsecondary education, thereby avoiding redundancy and maintaining rigor. They are also closely linked to current business and industry standards to ensure relevance and quality. (3-28-18)

05. Field Experience. Paid or unpaid work experience such as business/industry internship, clinical

experience, supervised occupational experience, job placement, school-based enterprise, or similar work experience setting. The field experience must be of sufficient duration and depth to add to the technical competencies of the student. (3-30-01)

006. -- 099. (RESERVED)

100. STATEMENT OF PURPOSE.

The purpose of this rule is to clearly define general implementation criteria, the criteria for approval for funding, the added cost unit calculation, the procedure to follow in calculating average daily attendance (ADA), the process to follow for fund distribution, and program accountability for Idaho Career Technical Schools. (3-30-01)

101. CAREER TECHNICAL SCHOOL GENERAL APPROVAL CRITERIA.

For approval, applying career technical school's district must meet at least four (4) of the five (5) criteria listed in Section 33-1002G, Idaho Code. Approval criteria: (3-28-18)

- 01. High School Attendance Zones.** Two (2) or more high school attendance zones. (3-30-01)
- 02. Dual Credit.** (3-30-01)
- 03. Field Experience.** (3-30-01)
- 04. Funded as a Separate School.** (3-30-01)
- 05. Separate Site or Cooperative Service Agency.** Located at a separate site or approved by the State Board of Education as a cooperative service agency. (3-30-01)

102. CAREER TECHNICAL COMPONENT CRITERIA.

01. Program Criteria. Career technical schools are intended to deliver high-end technical education programs that go beyond the scope of traditional career technical education. The lab should be appropriately designed for the type of program and the number of students enrolled. The program should have state-of-the-art equipment, current technology and strong links to business and industry. (3-30-01)

- 02. Career Technical School Program.** Each program of a career technical school shall: (3-30-01)
 - a.** Deliver a sequence of career technical education courses that culminate in a capstone course. (3-28-18)
 - b.** Meet all of the required technical competency credit standards established by the state board of education. (3-28-18)
 - c.** Develop and maintain business and industry partnerships in addition to the technical advisory committee. (3-28-18)
 - d.** Implement instructional delivery methods that integrate advances in industry technologies. (3-28-18)
 - e.** Employ instructors who hold career technical certification to teach the occupation and who also hold a related industry-based credential, or equivalent credential, as approved by the Division of Career Technical Education. (3-28-18)
 - f.** Be delivered over a term of not less than five (5) semesters, or the equivalent instructional hours. Semester and trimester equivalencies will be approved by the Division of Career Technical Education. (3-28-18)
 - g.** Enroll students from at least two (2) high schools. No single high school will comprise more than eighty-five percent (85%) of the total enrolled career technical school students. In the event a student enrolled in the career technical school is not enrolled in a high school, that student will be reported separately, based on the high

school attendance zone where the student resides. (3-28-18)

h. Promote the development of leadership. (3-28-18)

103. APPLICATION PROCESS.

Applications for career technical school funding must be received by the Division of Career Technical Education on or before the first Friday in July for the following fiscal year. (3-30-01)

104. CAREER TECHNICAL SCHOOL ADDED COST UNIT FUNDING AND ELIGIBILITY.

Section 33-1002G, Idaho Code, provides school districts an opportunity to establish career technical schools that qualify for funding appropriated for the specific purpose of supporting the added cost of career technical schools. The funds are appropriated to the State Board for Career Technical Education to be expended by the Division of Career Technical Education. Funding is based on the average daily attendance (ADA) of students enrolled in the career technical school. If any approved program within a career technical school does not enroll students from more than one (1) high school during the reporting period, the enrolled students may not be counted as part of the school's average daily attendance for that reporting period. If the overall enrollment exceeds more than eighty-five percent (85%) of students from any single high school during the school year, the Division of Career Technical Education may withhold all or part of the career technical school's funding. (3-28-18)

105. CAREER TECHNICAL SCHOOL AVERAGE DAILY ATTENDANCE.

The Division of Career Technical Education shall use the enrollment and attendance submitted to the Division of Career Technical Education by the school district to calculate career technical school average daily attendance (ADA) in accordance with applicable laws and rules (Section 33-1002, Idaho Code). Students in attendance at a qualifying career technical school shall be reported as aggregate hours and/or aggregate attendance. The aggregate hours and aggregate attendance will be combined to calculate the ADA for the career technical school. (3-28-18)

01. Aggregate Hours. The daily hours of all students enrolled in approved intermediate and capstone courses who attend less than two and one-half (2.5) hours per day shall be added together and reported as weekly aggregate hours. (3-28-18)

02. Aggregate Attendance. Students enrolled in approved intermediate and capstone courses who attend more than two and one-half (2.5) hours per day are to be reported as aggregate attendance. (3-28-18)

106. CAREER TECHNICAL SCHOOL ADDED COST UNIT CALCULATION.

The Division of Career Technical Education shall use the career technical school average daily attendance (ADA) as the basis for added cost unit funding. (3-30-01)

01. State Support Unit Value. The added cost support unit value shall be based on state salary-based apportionment, state paid employee benefits (less state unemployment), base support, and safe environment distribution factors found in the Public School Support Program. (3-30-01)

02. Support Unit Divisor. Added cost support units for career technical schools shall be calculated by using the secondary support unit attendance divisor of eighteen and one-half (18.5) as shown in Section 33-1002(6), Idaho Code. (3-30-01)

03. Added Cost Support Factor. The added cost support factor for career technical schools shall be calculated by multiplying point thirty-three (.33) times the added cost support units generated in the career technical school. (3-30-01)

04. Estimated Distribution. The estimated distribution shall be calculated by multiplying the state support unit value by the added cost support factor. (3-28-18)

107. CAREER TECHNICAL SCHOOL ADDED COST UNIT FUND DISTRIBUTION.

Once the career technical appropriation is made, the per unit value will be determined by dividing the total units into the appropriation. (3-30-01)

01. Payment Distribution. Added cost support unit funds shall be distributed by the Division of

IDAHO ADMINISTRATIVE CODE
Division of Career Technical Education

IDAPA 55.01.03
Rules of Career Technical Schools

Career Technical Education in two (2) payments: (3-30-01)

a. Seventy percent (70%) of the total estimated funds for which career technical schools are eligible shall be distributed each year following receipt of first-period attendance data from the approved career technical schools. Funding will not be distributed until reports have been received and approved by the Division of Career Technical Education from each approved schools. (3-28-18)

b. Based on actual support units generated during the year, the balance shall be distributed each year by July 15th. (3-30-01)

108. ACCOUNTABILITY.

01. Assessment Process. The Division of Career Technical Education shall develop an assessment process that includes measures and standards for career technical school programs. (3-30-01)

02. Reporting. No later than October 15 of each year, career technical schools will submit a report to the Division of Career Technical Education, detailing their enrollment at the program level by high school. (3-28-18)

03. Administrator Responsibility. The administrator of each career technical school shall be responsible to provide onsite administration of the career technical school. The administrator will submit all required career technical school reports requested by the Division of Career Technical Education. (3-28-18)

04. Accreditation. Each career technical school shall be accredited following Department of Education guidelines. This accreditation shall be appropriate for the individual type of career technical school that is developed. (3-30-01)

05. School Improvement Plan. The administration, faculty and staff at each career technical school shall be responsible to develop and implement a local school improvement plan based on the assessment process developed by the Division of Career Technical Education. (3-28-18)

109. -- 999. (RESERVED)

IDAPA 55
TITLE 01
CHAPTER 04

**55.01.04 – RULES GOVERNING IDAHO QUALITY PROGRAM STANDARDS INCENTIVE GRANTS
AND AGRICULTURAL EDUCATION PROGRAM START-UP GRANTS**

000. LEGAL AUTHORITY.

This chapter is adopted under authority of Section 33-1629, Idaho Code. (4-11-15)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 55.01.04, “Rules Governing Idaho Quality Program Standards Incentive Grants and Agricultural Education Program Start-Up Grants.” (4-11-15)

02. Scope. These rules shall govern the standards and procedures for application to the Idaho Quality Program Standards Incentive Grants and the Agricultural Education Program Start-up Grants as administered by the Idaho Division of Career Technical Education. (4-11-15)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, any written interpretations of the rule of this chapter will be made available at the Idaho Division of Career Technical Education. (4-11-15)

003. ADMINISTRATIVE APPEALS.

All appeals under these rules shall be conducted pursuant to the procedures outlined herein. (4-11-15)

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into these rules. (4-11-15)

005. OFFICE INFORMATION.

01. Office Hours. The offices of the Division of Career Technical Education are open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. (4-11-15)

02. Street Address. The offices of the Division are located at 650 W. State Street, Boise, Idaho. (4-11-15)

03. Mailing Address. The mailing address of the Division is P.O. Box 83720, Boise, ID 83720-0095. (4-11-15)

04. Telephone Number. The telephone number of the Division is (208) 334-3216. (4-11-15)

05. Facsimile. The facsimile number of the Division is (208) 334-2365. (4-11-15)

06. Website. The website of the Division is <https://cte.idaho.gov/>. (4-11-15)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (4-11-15)

007. -- 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.

01. Administrator. The administrator for the Division of Career Technical Education. (4-11-15)

02. Agricultural and Natural Resources Program. A program approved by the Division of Career Technical Education that is a standards-based curriculum in agriculture, food and natural resources systems delivered through an integrated model that incorporates classroom and laboratory instruction, experiential learning and student

IDAHO ADMINISTRATIVE CODE
Division of Career Technical Education

IDAPA 55.01.04 – Program Standards
Incentive & Agricultural Education Grants

leadership and personal development. (4-11-15)

03. Board. The State Board for Career Technical Education. (4-11-15)

04. Division. The Division of Career Technical Education. (4-11-15)

05. FTE. Full Time Equivalent employee. (4-11-15)

06. School District or District. A public school district or a charter school authorized by the Public Charter School Commission or school district. (4-11-15)

011. -- 099. (RESERVED)

100. INCENTIVE GRANT.

01. Eligibility Requirements. Eligible applicants must meet quality program and instructor requirements as approved by the board. Applicants may re-apply each year regardless of whether they have received a previous grant award. (4-11-15)

a. An agricultural and natural resources program in any grade nine (9) through twelve (12) must first meet the minimum program-specific quality program standards as approved by the board. (4-11-15)

b. Programs will be rated on a scale consisting of “non-existent,” “below basic,” “basic,” “qualified,” “distinguished,” and “exemplary.” Eligibility requires that the program must meet each of the program quality indicators at the level of “basic” or higher. Programs must also have an overall average rating of no less than “distinguished” for all program-specific quality standards. This average will be calculated using the quality indicators within each standard. Programs that do not meet the minimum quality standards requirements in one (1) year may be found eligible in subsequent year. Programs will be assessed by the division. (4-11-15)

c. Instructors must teach in an agricultural and natural resources program that meets the quality program standards and must also meet the instructor-specific quality program standard as approved by the board. (4-11-15)

d. Instructors will be rated on a scale consisting of “non-existent,” “below basic,” “basic,” “qualified,” “distinguished,” and “exemplary.” Eligibility requires that the instructor must meet each of the program quality indicators at the level of “basic” or higher. Instructors must also have an average rating of no less than “distinguished” for all instructor-specific quality indicators. Instructors that do not meet the minimum quality standards requirements in one (1) year may be found eligible in subsequent year. All instructors of agricultural and natural resources programs in grades nine (9) through twelve (12) are eligible to apply for the grant. (4-11-15)

e. Payments to districts will be adjusted according to the percent of time an instructor teaches within an approved agricultural and natural resources program. (4-11-15)

f. Should the division request additional information from a school district regarding a grant application, districts must respond to the request within the time period indicated. Failure to respond will result in the cancellation of the application and/or the forfeiture of the grant. (4-11-15)

02. Application Process. The application process consists of a formal application and assessment. (4-11-15)

a. To be considered for the grant, a school district must first complete and submit a formal application and supporting documentation on behalf of an instructor for an approved program according to the timeline established by the administrator. Applications may be submitted electronically to the division. In the event of a mailed application, applications must be postmarked no later than the timeline specified by the division. Instructors may not apply on their own behalf. (4-11-15)

b. Following the receipt of an application, the division will conduct an assessment of the program and

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instructor to ensure they both meet the minimum eligibility requirements, as outlined in the quality program standards. At the administrator’s discretion, the division may partner with additional subject-matter experts to assist in the evaluation. Assessments will be conducted each school year the instructor and program participate in the grant program. Districts will only be eligible to apply for the grant during the academic year the program received an assessment. Prior assessments cannot be used for subsequent grant applications. (4-11-15)

03. Selection of Grant Recipients. Grants will be awarded annually based on the availability of grant funds and the number of qualified applicants. Grants will be awarded to applicants based on ranking in accordance with the following criteria: (4-11-15)

- a. Applicants will be ranked according to their overall score. Scores will be calculated using the sum of: (4-11-15)
 - i. The average score of the program quality indicators; and (4-11-15)
 - ii. The average score of the instructor-specific program quality indicators. (4-11-15)

04. Incentive Grant Award. (4-11-15)

a. Announcement of the grant award will be made following administrator approval through the distribution of a funding authorization letter. Prior to the distribution of the letter, the division will verify that the grant recipient continues to teach at the same school, in the same agricultural and natural resources program, and at the same FTE level as indicated on the formal application. (4-11-15)

b. The total number of recipients will vary by year in accordance with the availability of funds and the qualifications of the applicant pool. Awards will be in the amount of ten thousand dollars (\$10,000) until available funds are exhausted or all qualified recipients have been awarded the grant. In the event that funds are exhausted and a qualified teacher does not receive the grant in the year he or she applies, that teacher will receive priority consideration for the grant the following year. If the teacher(s) reapplies and continues to meet the minimum qualifications the following year, he or she will be eligible to receive the grant regardless of where he or she ranks. Once the prioritized teacher(s) has been awarded funds, the remaining teachers will be ranked and funds will be awarded until the remaining funds have been exhausted. This cycle of prioritization may continue for multiple years; once a qualified teacher receives funds, he or she automatically moves back into the pool of teachers whose applications will be ranked in the following application cycle. Grants may be less than ten thousand dollars (\$10,000) when certain conditions exist: (3-28-18)

- i. Tied ranking. In the event of a tie, and in those instances where the number of qualified applicants exceeds the available funds, grants will be awarded evenly among those recipients with a tied score. (4-11-15)

- ii. Less than full-time employment in an approved program. Grants will be awarded using FTE to calculate the percent of time an instructor spends teaching within an approved agricultural and natural resources program. In the event an instructor teaches in an approved program in less than a full-time capacity, grants will be pro-rated according to the percent of time the instructor spends teaching in the approved program. (4-11-15)

- c. Grants are awarded on an annual basis and are not renewable or transferable. (4-11-15)

- d. The use of grant funds must be in accordance with division guidelines and must be clearly linked to the agricultural and natural resources program identified on the formal application. (4-11-15)

- e. Grant funds may be used to improve the agricultural and natural resources program, including but not limited to: (4-11-15)

- i. Offset travel and registration fees associated with educational workshops and/or professional training on behalf of the instructor; (4-11-15)

- ii. Purchase or repair equipment; or (4-11-15)

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- iii. Purchase educational supplies/curricula. (4-11-15)
- f. Grant funds may not be used to: (4-11-15)
 - i. Cover the costs of either salaries or benefits, including extended contracts; (4-11-15)
 - ii. Offset expenses associated with the FFA organization or other student organizations; or (4-11-15)
 - iii. Supplant other district funding sources, e.g. routine facility maintenance or improvements. (4-11-15)

101. -- 199. (RESERVED)

200. START-UP GRANT.

01. Eligibility Requirements. A school district may apply for a start-up grant for a newly-approved agricultural and natural resources program or to re-establish an agricultural and natural resources program in any grade nine (9) through twelve (12) when specific eligibility requirements are met. Districts are eligible to apply for the grant within the first three (3) fiscal years their program is approved or re-established. If a district applies for the grant but does not receive it, the district may reapply the following year(s). However, the district may only receive the grant once and may not apply beyond the three-year window. (3-28-18)

a. To start a new program, districts are required to first complete a request for new secondary program of study form for a new agricultural and natural resources program in one (1) of the specified grades. The new agricultural and natural resources program must then be approved by the division prior to application for the grant. Expansions of existing programs, including the addition of new career pathways or additional staff, do not qualify as a new program. (4-11-15)

b. To re-start a program, districts are required to first complete a Request for New Secondary Program of Study form to re-establish an agricultural and natural resources program in any grade nine (9) through twelve (12). The re-established agricultural and natural resources program must then be approved by the division prior to application for the grant. The re-established program must have been inactive for at least two (2) academic years to qualify for the grant. (4-11-15)

02. Application Process. A school district may submit an application for a new or re-established program. Completed applications, which must be authorized by the district superintendent, must be submitted to the division according to the timeline established by the administrator. In the event of a mailed application, the application must be postmarked no later than the timeline specified in the request. (3-28-18)

a. Applications must include all required information outlined in the grant application, including specific documents detailing the district’s proposed budget and long-term strategy for sustaining the program. (4-11-15)

b. Communication with state officials. Should the division request additional information from a district regarding a grant application, districts must respond to the request within the time period indicated. Failure to respond will result in the cancellation of the application and/or the forfeiture of the grant. (4-11-15)

03. Selection of Grant Recipients. Grants will be awarded annually by the division based on the availability of grant funds and the number of qualified programs. Grants will be awarded to districts based on ranking and priority that considers factors including but not limited to: the strength of the budget proposal, sustainability potential of the proposed program, and the history of prior grant awards. (4-11-15)

04. Start-up Grant Award. Announcement of the grant award will be made following administrator approval through the distribution of a funding authorization letter. The total number of recipients will not exceed four awards annually, and may vary by year in accordance with the availability of funds and the qualifications of the applicant pool. Awards will be in the amount of twenty-five thousand dollars (\$25,000) until available funds are exhausted or all qualified recipients have been awarded the grant. (4-11-15)

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- a.** Grants are awarded on a one-time basis and are not renewable or transferable. If a district is awarded the grant for a new program, the program is ineligible for future awards should the program terminate and then be re-established. (4-11-15)
- b.** Use of grant funds must be in accordance with division guidelines and must be clearly linked to the agricultural and natural resources program identified on the formal application. If a district fails to spend the entire award amount, those funds may not be carried forward to the next fiscal year. (4-11-15)
- c.** Grant funds may be used to improve the agricultural and natural resources program, including but not limited to: (4-11-15)
 - i.** Offset travel and registration fees associated with educational workshops and/or professional training on behalf of the instructor; (4-11-15)
 - ii.** Purchase or repair equipment; (4-11-15)
 - iii.** Purchase educational supplies/curricula; or (4-11-15)
 - iv.** Start-up costs, up to one thousand dollars (\$1,000,) associated with establishing a new chapter of FFA or other relevant student organization. (4-11-15)
- d.** Grant funds may not be used to: (4-11-15)
 - i.** Cover the costs of salaries and/or benefits, including extended contracts; (4-11-15)
 - ii.** Offset ongoing expenses associated with the FFA organization or other student organizations; or (4-11-15)
 - iii.** Supplant other district funding sources, e.g. routine facility maintenance or improvements. (4-11-15)

201. -- 299. (RESERVED)

300. PAYMENTS.

Payment of grant funds will be made to the district once the final award determinations are made. For grants awarded under Section 100, funds will be made to the district on behalf of the instructor. No later than June 30 of the fiscal year the grant was received, the district must submit a detailed expenditure report to the Division. Each report is subject to review and verification by the Division and must detail that all expenditures were allowable under the grant and that all funds were spent within the fiscal year. Any unspent grant funds must be returned to the Division. (3-28-18)

301. APPEALS.

Any grant applicant or recipient adversely affected by a decision made under provisions of these rules may appeal such adverse decision as follows. The grant applicant or recipient must appeal in writing no later than thirty (30) days following the announcement of the award, and the written statement must include the basis for the appeal. The appeal must be submitted to the administrator. The division shall acknowledge receipt of the appeal within seven (7) days. The administrator may or may not agree to review the action, or may appoint a subcommittee of three (3) persons to hear the appeal, including at least one (1) agricultural and natural resources professional. (4-11-15)

01. Review. If the appeal is transmitted to the subcommittee, the subcommittee will review the appeal and submit a written recommendation to the administrator within fifteen (15) days from the time the subcommittee receives the appeal document. The grant applicant or recipient initiating the appeal will be notified by the chairperson of the subcommittee of the time and place when the subcommittee will consider the appeal and will be allowed to appear before the subcommittee to discuss the appeal. (4-11-15)

02. Presentation. Following the subcommittee’s decision, the administrator will present the

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subcommittee's recommendation to the board at the next regularly scheduled meeting of the board. The grant applicant or recipient initiating the appeal may, at the discretion of the board, be permitted to make a presentation to the board. (4-11-15)

03. Final Decision. The decision of the board is final, binding, and ends all administrative remedies, unless otherwise specifically provided by the board. The board will inform the incentive grant applicant or recipient in writing of the decision of the board. (4-11-15)

302. -- 999. (RESERVED)

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DIVISION OF CAREER TECHNICAL EDUCATION (DIVISION)

SUBJECT

Pending Rule 55-0103-1901 – Rules of Career Technical Schools

REFERENCE

2001	Board approved Administrative Rules, creating IDAPA 55.01.03 – Rules of Career Technical Schools
August 2018	Board approved proposed rule docket 55-0103-1801, amending the added cost funding for Career Technical Schools, moving from a Support Unit based formula to a student enrollment-based formula.
November 8, 2018	Board rejected pending rule docket 55-0103-1801 based on stakeholder input and requested the Division do additional work in communicating with stakeholders and generating buy-in for the changes in the funding distribution formula.
August 2019	Board approved proposed rule with amendments moving from an average daily attendance funding distribution model to an enrollment-based model.
October 2019	Board approved a temporary rule implementing the new funding distribution model for the 2019-2020 school year.

APPLICABLE STATUTE, RULE, OR POLICY

Section 33-1002G, Idaho Code
Idaho Administrative Code, IDAPA 55.01.03

BACKGROUND/DISCUSSION

Amendments to IDAPA 55.01.03 reflect updates to Section, 33-1002G, Idaho Code, which provides the funding framework for career technical schools. During the 2018 legislative session, this section of Idaho code was updated to eliminate the link to average daily attendance allowing the Board the flexibility to explore other methodologies for distributing funds appropriated for career technical schools. The Division entered into Negotiated Rulemaking in July 2018, working with career technical school administrators to develop a framework to fund career technical schools using an enrollment-based model. The rule was then vacated due to feedback from education stakeholders and concerns about stakeholder involvement. The updated proposed rule reflects a several month process of engagement and dialogues, with career technical school administrators taking on a primary role in the development of the new formula.

The amendments will amend the process for calculating and distributing funds to career technical schools. An enrollment-based approach more closely aligns with

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how the infrastructure and costs for these programs are calculated and reduces the reporting burden for school administrators.

IMPACT

There will be no additional immediate fiscal impact, as these changes simply clarify the distribution of funds within any given appropriation. Long term fiscal impact will be determined as the number of students enrolling in a career technical school increases and/or the number of funded schools increases.

ATTACHMENTS

Attachment 1 – Pending Rule – Docket 55-0103-1901

STAFF COMMENTS AND RECOMMENDATIONS

Pursuant to Section 33-1002G, Idaho Code, Schools meeting certain eligibility criteria may be designated as “career technical schools” and receive added cost funding to support the added cost of high-quality career technical programs. Career technical school funding is currently based on student average daily attendance and support units. Due to the cost of specific equipment needs for career technical education programs, an enrollment-based model would be more appropriate for career technical schools. Section 33-1002G, Idaho Code was amended during the 2018 Legislative Session to allow the Board to explore moving to an enrollment-based funding model. The proposed amendments would move career technical school funding from a model based on student average daily attendance and support units to one based on the number of students enrolled in a capstone course during the previous academic year, the aggregate total number of students completing a technical skills assessment for the program in which the student was enrolled, and the total credit hours reported by each school for intermediate, capstone, and work-based learning courses. Attachment 2 provides an example, using 2018-2019 school year data, of the variance between the old funding distribution model and the new model.

The notice of intent to promulgate this rule was published in the July 3, 2019 (Vol.18-7) Administrative Bulletin. The proposed rule approved by the Board was published in the October 2, 2019 (Vol. 19-10) Administrative Rules bulletin. Staff received no comments during the ensuing 21-day comment period, nor were any additional comments provided by the Division. Once approved, pending rules will be submitted to the Department of Administration for publication in the Idaho Administrative Rules Bulletin and are then forwarded to the legislature for consideration. Pending rules become effective at the end of the legislative session in which they are submitted, if they are not rejected by the Legislature.

There have been no changes between the published proposed rule and pending rule. Staff recommends approval.

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BOARD ACTION

I move to approve pending rule Docket 55-0103-1901 as submitted in attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

IDAPA 55
TITLE 01
CHAPTER 03

55.01.03 – RULES OF CAREER TECHNICAL SCHOOLS

000. LEGAL AUTHORITY.

The State Board of Education is designated as the State Board for Career Technical Education and is responsible to execute the laws of the state of Idaho relative to career technical education, administer state and federal funds, and through the administrator of the State Division of Career Technical Education, coordinate all efforts in career technical education (Section 33-2202 through 33-2212, Idaho Code). (3-30-01)

001. TITLE AND SCOPE.

01. Title. The rules shall be cited as IDAPA 55.01.03, “Rules of Career Technical Schools.” (3-30-01)

02. Scope. These rules serve the administration of Career Technical Education in Idaho and define the duties of the State Division of Career Technical Education. (3-30-01)

002. WRITTEN INTERPRETATIONS.

Written interpretations of these rules, if any, are on file at the office of the State Division of Career Technical Education. (3-30-01)

003. ADMINISTRATIVE APPEALS.

All appeals under these rules shall be conducted pursuant to the procedures set forth by the State Board of Career Technical Education. (3-30-01)

004. (RESERVED)

005. DEFINITIONS.

01. Administrator. A designated school administrator, holding a career technical administrator certificate pursuant to IDAPA 08.02.02, “Rules Governing Uniformity,” Section 015, and who oversees and monitors the career technical school programs and is responsible for ensuring the school meets all applicable federal, state, and local school district regulations, rules, and policies. (3-28-18)

~~**02. Attendance Zones.** For purposes of Section 33-1002G, Idaho Code, each high school is classified as an attendance zone. The attendance zone requirement can be met by having students from at least two (2) high school zones within a district or at least two (2) high school zones in different districts participate in the career technical school. A minimum of fifteen percent (15%) of the total student body must reside in attendance zones apart from the attendance zone of the majority of students. Cooperative Service Agencies must meet the fifteen percent (15%) attendance criteria on a program-by-program basis. (3-30-01)~~

0302. Capstone Course. A culminating course that requires students to demonstrate the knowledge and skills learned throughout their program of study. (3-28-18)

0403. Career Technical Schools. Schools designed to provide high-end, state-of-the-art technical programs that foster quality technical education through intermediate and capstone courses. Programs and services are directly related to the preparation of high school students for employment in current or emerging occupations that require other than a baccalaureate or advanced degree. These schools are closely linked to postsecondary education,

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thereby avoiding redundancy and maintaining rigor. They are also closely linked to current business and industry standards to ensure relevance and quality. (3-28-18)

04. **Concentrator Student.** A Junior or Senior enrolled in the capstone course.

05. **Credit Hours.** The total number of enrolled credit hours reported to the State Department of Education for qualifying intermediate, capstone, and work-based learning courses.

06. **EDUID.** Education Unique Identifier.

07. **Enrollment Units.** The total number of individual EDUIDs that are reported as enrolled during the previous academic year in a qualifying capstone course, as determined by the division.

0508. **Field Experience.** Paid or unpaid work experience such as business/industry internship, clinical experience, supervised occupational experience, job placement, school-based enterprise, or similar work experience setting. The field experience must be of sufficient duration and depth to add to the technical competencies of the student. (3-30-01)

09. **Intermediate Course.** A course beyond the introductory level that adds to the technical competencies of pathway students, is intended to serve as a prerequisite for a capstone course, and is offered in grades 940 through 12.

10. **Participation Total.** The total number of technical skills assessments taken by enrolled concentrator students as part of each required capstone course during the previous academic year.

11. **Technical Skill Assessment.** An assessment given at the culmination of a pathway program during the capstone course and measures a student's understanding of the technical requirements of the occupational pathway.

12. **Work-based Learning Course.** A paid or unpaid, internship, clinical, or apprenticeship that is delivered as part of a Career Technical School program of study. This course is delivered in conjunction with or after completion of a capstone course. Work-based learning courses must be tied to the program of study, and must be formalized through a written agreement between the school, industry partner, parent, and student.

00612. -- 099. (RESERVED)

100. STATEMENT OF PURPOSE.

The purpose of this rule is to clearly define general implementation criteria, the criteria for approval for funding, the added cost unit calculation, the procedure to follow in calculating average daily attendance (ADA), enrollment-based funding calculation, the process to follow for fund distribution, and program accountability for Idaho Career Technical Schools. (3-30-01)

~~**101. CAREER TECHNICAL SCHOOL GENERAL APPROVAL CRITERIA.**~~

~~For approval, applying career technical school's district must meet at least four (4) of the five (5) criteria listed in Section 33-1002G, Idaho Code. Approval criteria: (3-28-18)~~

~~01. **High School Attendance Zones.** Two (2) or more high school attendance zones. (3-30-01)~~

~~02. **Dual Credit.** (3-30-01)~~

~~03. **Field Experience.** (3-30-01)~~

~~04. **Funded as a Separate School.** (3-30-01)~~

~~05. **Separate Site or Cooperative Service Agency.** Located at a separate site or approved by the State~~

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~~Board of Education as a cooperative service agency. (3-30-01)~~

102. CAREER TECHNICAL COMPONENT CRITERIA.

01. Program Criteria. Career technical schools are intended to deliver high-end technical education programs that go beyond the scope of traditional career technical education. The lab should be appropriately designed for the type of program and the number of students enrolled. The program should have state-of-the-art equipment, current technology and strong links to business and industry. (3-30-01)

02. Career Technical School Program. Each program of a career technical school shall: (3-30-01)

a. Deliver a sequence of career technical education courses that culminate in a capstone course. (3-28-18)

b. Meet all of the required technical competency credit standards established by the state board of education. (3-28-18)

c. Develop and maintain business and industry partnerships in addition to the technical advisory committee. (3-28-18)

d. ~~Implement instructional delivery methods that integrate advances in industry technologies.~~ Integrate industry-specific state-of-the-art equipment and technologies into classroom instruction and applied learning opportunities for students. (3-28-18)

e. Employ instructors who hold career technical certification to teach the occupation and who also hold a related industry-based credential, or equivalent credential, as approved by the division of career technical education. (3-28-18)

f. Be delivered over a term of not less than five (5) semesters, or the equivalent instructional hours. Semester and trimester equivalencies will be approved by the division of career technical education. (3-28-18)

g. Enroll students from at least two (2) high schools. No single high school will comprise more than eighty-five percent (85%) of the total enrolled career technical school students. In the event a student enrolled in the career technical school is not enrolled in a high school, that student will be reported separately, based on the high school attendance zone where the student resides. (3-28-18)

h. Promote the development of leadership. (3-28-18)

103. APPLICATION PROCESS.

~~New and renewal~~ Applications for career technical school funding must be received by the Division of Career Technical Education on or before the ~~first Friday in July~~ fifteenth of April for the following fiscal year. (3-30-01)

104. CAREER TECHNICAL SCHOOL ADDED COST UNIT FUNDING AND ELIGIBILITY.

Section 33-1002G, Idaho Code, provides school districts an opportunity to establish career technical schools that qualify for funding appropriated for the specific purpose of supporting the added cost of career technical schools. The funds are appropriated to the State Board for Career Technical Education to be expended by the Division of Career Technical Education. Funding is based on the ~~average daily attendance (ADA) of students enrolled in the career technical school~~ number of students enrolled in a capstone course during the previous academic year, the aggregate total of the students who completed the technical skill assessment for the program the student was enrolled in, and the total credit hours reported by each school for intermediate, capstone, and work-based learning courses. If any approved program within a career technical school does not enroll students from more than one (1) high school during the ~~reporting period, the enrolled students may not be counted as part of the school's average daily attendance for that reporting period~~ previous academic year, the program will not be included in the current year funding calculation. If the overall school enrollment exceeds more than eighty-five percent (85%) of students from any single high school

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during the ~~previous~~ school year, the ~~d~~Division of ~~e~~Career ~~t~~Technical ~~e~~Education may withhold all or part of the career technical school's funding. (3-28-18)

105. CAREER TECHNICAL SCHOOL ~~AVERAGE—DAILY—ATTENDANCE~~FUNDING CALCULATION.

~~The Division of Career Technical Education shall use the enrollment and attendance submitted to the division of career technical education by the school district to calculate career technical school average daily attendance (ADA) in accordance with applicable laws and rules (Section 33-1002, Idaho Code) Students in attendance at a qualifying career technical school shall be reported as aggregate hours and/or aggregate attendance. The aggregate hours and aggregate attendance will be combined to calculate the ADA for the career technical scho~~
The distribution of individual career technical school funding shall be calculated as a portion of the annual appropriation based on the following criteria: 50 percent (50%) of the annual appropriation will be divided among the total enrollment units, 25 percent (25%) will be divided by the total participation, and 25 percent (25%) will be divided among the total cumulative credit hours. Qualifying pathway enrollment shall be reported to the Department of Education. The Division of Career Technical Education shall gather aggregate participation total data from the independent technical skill assessment providers annually. (3-28-18)

~~01. Aggregate Hours. The daily hours of all students enrolled in approved intermediate and capstone courses who attend less than two and one half (2.5) hours per day shall be added together and reported as weekly aggregate hours. (3-28-18)~~

~~02. Aggregate Attendance. Students enrolled in approved intermediate and capstone courses who attend more than two and one half (2.5) hours per day are to be reported as aggregate attendance. (3-28-18)~~

106. ~~CAREER TECHNICAL SCHOOL ADDED COST UNIT CALCULATION.~~

~~The Division of Career Technical Education shall use the career technical school average daily attendance (ADA) as the basis for added cost unit funding. (3-30-01)~~

~~01. State Support Unit Value. The added cost support unit value shall be based on state salary based apportionment, state paid employee benefits (less state unemployment), base support, and safe environment distribution factors found in the Public School Support Program. (3-30-01)~~

~~02. Support Unit Divisor. Added cost support units for career technical schools shall be calculated by using the secondary support unit attendance divisor of eighteen and one half (18.5) as shown in Section 33-1002(6), Idaho Code. (3-30-01)~~

~~03. Added Cost Support Factor. The added cost support factor for career technical schools shall be calculated by multiplying point thirty three (.33) times the added cost support units generated in the career technical school. (3-30-01)~~

~~04. Estimated Distribution. The estimated distribution shall be calculated by multiplying the state support unit value by the added cost support factor. (3-28-18)~~

107. CAREER TECHNICAL SCHOOL ~~ADDED COST~~ UNIT FUND DISTRIBUTION.

Once the career technical appropriation is made, the per unit value will be determined by dividing the total units into the appropriation. The value of each unit may vary from year to year, depending on the total appropriation and the total number of units in each of the enrollment categories.
(3-30-01)

01. Payment Distribution. Added cost support unit funds shall be distributed by the Division of Career Technical Education in two (2) payments: (3-30-01)

a. Seventy percent (70%) of the total ~~estimated-appropriated~~ funds for which career technical schools are eligible shall be distributed no later than September 30 each year ~~following receipt of first period attendance data from the approved career technical schools.~~ Funding will not be distributed until ~~reports have been received and~~

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~~approved by the division of career technical education from each approved school the previous year enrollment units and the Division of Career Technical Education has verified aggregate participation total data.~~ (3-28-18)

~~b. Based on actual support units generated during the year, the balance shall be distributed each year by July 15th. The remaining funds shall be distributed no later than June 30.~~ (3-30-01)

108. ACCOUNTABILITY.

01. Assessment Process. The Division of Career Technical Education shall develop an assessment process that includes measures and standards for career technical school programs. (3-30-01)

02. Reporting. No later than October 15 of each year, career technical schools will submit a report to the division of career technical education, detailing their enrollment at the program level by high school. (3-28-18)

03. Administrator Responsibility. The administrator of each career technical school shall be responsible to provide onsite administration of the career technical school. The administrator will submit all required career technical school reports requested by the division of career technical education. (3-28-18)

04. Accreditation. Each career technical school shall be accredited following Department of Education guidelines. This accreditation shall be appropriate for the individual type of career technical school that is developed. (3-30-01)

05. School Improvement Plan. The administration, faculty and staff at each career technical school shall be responsible to develop and implement a local school improvement plan based on the assessment process developed by the division of career technical education. (3-28-18)

109. -- 999. (RESERVED)

**PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 26, 2019**

ATTACHMENT 2

CAREER TECHNICAL SCHOOL (CTS) NAME	50% \$ 2,412,894.50			25% \$ 1,206,447.25			25% \$ 1,206,447.25			CTS NAME	CTS TOTAL FY2020	CTS TOTAL FY2019	90% Guarantee
	Total CAPSTONE	% Statewide Total	\$\$\$\$	Total Credits Earned	% Statewide Total	\$\$\$\$	Total TSAs Taken	% Statewide Total	\$\$\$\$				
West Ada	623	21.44%	\$ 517,286.05	6248	34.60%	\$ 417,483.51	495	27.33%	\$ 329,757.81	West Ada	\$ 1,264,527.37	\$805,828.33	
Cassia	176	6.06%	\$ 146,135.39	1692	9.37%	\$ 113,057.31	120	6.63%	\$ 79,941.29	Cassia	\$ 339,133.99	\$136,997.54	
COSSA	75	2.58%	\$ 62,273.60	740	4.10%	\$ 49,412.46	46	2.54%	\$ 30,644.16	COSSA	\$ 142,330.22	\$155,117.27	
CTHS D91	250	8.60%	\$ 207,578.67	803	4.44%	\$ 53,622.04	110	6.07%	\$ 73,279.51	CTHS D91	\$ 334,480.23	\$358,814.33	
Dehryl Dennis	328	11.29%	\$ 272,343.22	2237	12.39%	\$ 149,473.53	138	7.62%	\$ 91,932.48	Dehryl Dennis	\$ 513,749.23	\$363,230.68	
Gateway	297	10.22%	\$ 246,603.46	546	3.02%	\$ 36,483.03	175	9.66%	\$ 116,581.04	Gateway	\$ 399,667.54	\$353,834.59	
ICAT	379	13.04%	\$ 314,689.27	1113	6.16%	\$ 74,369.26	239	13.20%	\$ 159,216.40	ICAT	\$ 548,274.93	\$550,007.51	
KTEC	193	6.64%	\$ 160,250.74	1298	7.19%	\$ 86,730.73	122	6.74%	\$ 81,273.64	KTEC	\$ 328,255.11	\$259,455.68	
Lewiston (DeAtley Ctr)	35	1.20%	\$ 29,061.01	449	2.49%	\$ 30,001.62	16	0.88%	\$ 10,658.84	Lewiston (DeAtley Ctr)	\$ 69,721.47	\$0.00	
Magic Valley	70	2.41%	\$ 58,122.03	420	2.33%	\$ 28,063.87	43	2.37%	\$ 28,645.63	Magic Valley	\$ 114,831.53	\$49,070.49	
MMACHS	70	2.41%	\$ 58,122.03	520	2.88%	\$ 34,745.75	70	3.87%	\$ 46,632.42	MMACHS	\$ 139,500.19	\$51,687.58	
MTCHS	90	3.10%	\$ 74,728.32	668	3.70%	\$ 44,601.51	70	3.87%	\$ 46,632.42	MTCHS	\$ 165,962.25	\$127,201.62	
PR2TA	35	1.20%	\$ 29,061.01	526	2.91%	\$ 35,146.66	32	1.77%	\$ 21,317.68	PR2TA	\$ 85,525.35	\$99,958.41	\$ 89,962.57
SEITEC	57	1.96%	\$ 47,327.94	121	0.67%	\$ 8,086.49	35	1.93%	\$ 23,316.21	SEITEC	\$ 78,730.64	\$11,831.44	
TCHS D93	200	6.88%	\$ 166,062.94	569	3.15%	\$ 38,019.87	73	4.03%	\$ 48,630.95	TCHS D93	\$ 252,713.75	\$241,535.86	
TVT	28	0.96%	\$ 23,248.81	107	0.59%	\$ 7,149.61	27	1.49%	\$ 17,986.79	TVT	\$ 48,385.21	\$38,165.94	
Totals Statewide	2906	100.00%	\$ 2,412,894.50	18056	100.00%	\$ 1,206,447.25	1811	100.00%	\$ 1,206,447.25		\$ 4,825,789.00		
\$ 4,825,789.00													