

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 2, 2020

SUBJECT

Proposed Omnibus Fee Rule Docket 08-0000-2000F

REFERENCE

May 2019	Board approved temporary and proposed rules extending all rules codified June 30, 2019.
February 2020	Board approved temporary omnibus fee rule.
August 26, 2020	Board approved Proposed omnibus fee rule, Docket 08-0000-2000F.

BACKGROUND/DISCUSSION

During the 2020 Legislative Session, the omnibus fee rules were not adopted by the legislature. To mitigate the effect of all fee rules expiring and the negative impact this would have to state agencies' operations and services, the Division of Financial Management developed a process where each agency submitted one temporary rule, reestablishing all existing fees in February 2020. This process was then followed by the promulgation of the fee rules through the negotiated rule-making process, commencing in August 2020. This pending fee rule is the next step in the negotiated rulemaking process.

The pending fee rule covers the following sections and fees:

- 08.01.11, Registration of Postsecondary Educational Institutions and Proprietary Schools (collected by the Office of the State Board of Education):
 - Subsection 200.07 Registration Fee, Postsecondary Educational Institutions
 - Subsection 300.06 Registration Fee, Proprietary Schools
 - 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 private institution and proprietary schools 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).
- 08.02.02, Rules Governing Uniformity
 - Subsection 066 Fees, Educator Certification (Collected by the State Department of Education)
 - Initial Certificate \$75
 - Renewal Certificate \$75
 - Alternate Route Authorization \$100
 - Additions or Changes to an Existing Certificate \$25
 - Replace an Existing Certificate \$10
 - Subsection 075.03, Fingerprinting and Background Investigation Checks(Collected by the State Department of Education)
 - Fingerprinting Processing Fee, All Applicants (excluding volunteers) \$28.25
 - Fingerprinting Processing Fee, Volunteers \$26.25

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 2, 2020

- 08.02.03, Rules Governing Thoroughness
 - Subsection 128, Curricular Materials Selection and Online Course Approval (Collected by the State Department of Education)
 - Curricular Materials Review submission fee \$60 or an amount equal to the retail price of each curricular material

IMPACT

Once approved, the pending or final fee rule will be published in the administrative bulletin and forwarded to the Legislature for consideration in 2021.

ATTACHMENTS

Attachment 1 – Pending Fee Rule Docket 08-0000-2000F

STAFF COMMENTS AND RECOMMENDATIONS

The proposed omnibus fee rule was published by the Department of Administration in a special bulletin, September 16, 2020 (page 360). No public comments were received during the 21-day public comment period. The pending (or final rule) is being presented to the Board with no changes from the proposed version approved at the August 26, 2020 Board meeting.

Staff recommends approval.

BOARD ACTION

I move to approve the pending omnibus fee docket 08-0000-2000F, as provided in attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

08.01.11 – REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS
AND PROPRIETARY SCHOOLS

(BREAK IN CONTINUITY OF SECTIONS)

200. REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS.

01. Delegation. Section 33-2403, Idaho Code, provides that a postsecondary educational institution must hold a valid certificate of registration issued by the Board. The Board delegates authority to its Executive Director and the Office of the State Board of Education to administer the registration of postsecondary educational institution, in accordance with Title 33, Chapter 24, Idaho Code, and this rule. ()

02. Registration Requirement. ()

a. Unless exempted by statute or this rule, as provided herein, a postsecondary educational institution which maintains a presence within the state of Idaho, or that operates or purports to operate from a location within the state of Idaho, shall register and hold a valid certificate of registration issued by the Board. An institution shall not conduct, provide, offer, or sell a course or courses of study, or degree unless registered. ()

b. Registration shall be for the period beginning on the date a certificate of registration is issued and continue through June 30 of the next succeeding year. A registered postsecondary educational institution must renew its certificate of registration annually, and renewal of registration is not automatic. ()

c. Renewal of registration shall be for the period beginning on July 1 of any year, and continue through June 30 of the next succeeding year. ()

d. A new or start-up entity that desires to operate as a postsecondary educational institution in Idaho but which is not yet accredited by an accreditation organization recognized by the Board must register and operate as a proprietary school until accreditation is obtained. A new or start-up entity that is accredited and authorized to operate in another state, and which desires to operate as a postsecondary educational institution in Idaho offering degrees for which specialized program accreditation is required, may be granted approval to operate subject to the successful attainment of such program accreditation within the regular program accreditation cycle required by the accreditor. ()

e. There is no inherent or private right to grant degrees in Idaho. That authority belongs only to institutions properly authorized to operate in Idaho under these rules. ()

03. Idaho Presence. ()

a. An institution shall be deemed to have a presence in Idaho, or to be operating or purporting to be operating from a location within the state of Idaho, if it owns, rents, leases, or uses any office or other type of physical location in Idaho, including a mailing or shipping center, or if it represents in any way, such as on an electronic or Internet website, to have an Idaho street or mailing address, including a post office box in Idaho, for purposes of conducting, providing, offering or selling a course or courses of study or degrees. ()

b. Idaho presence shall include medical/osteopathic education clinical instruction occurring in the state of Idaho as part of a course of study leading to a degree pursuant to a formal multi-year arrangement or agreement between such clinic and an institution providing medical/osteopathic education instruction where eleven (11) or more students of the institution are physically present simultaneously at a single field site. ()

c. Idaho presence shall not include: ()

i. Distance or online education delivered by an institution located outside of the state of Idaho to students in this state when the institution does not otherwise have physical presence in Idaho, as provided in Subsection 200.03.a. of this rule; ()

ii. Medical education instruction occurring in the state of Idaho by an institution pursuant to a medical education program funded by the state of Idaho; ()

iii. Internship or cooperative training programs occurring in the state of Idaho where students are employed by or provide services to a business or company in this state and receive course credit from an institution related to such activities; or ()

iv. Activities limited to the recruiting or interviewing of applicants or potential students in the state of Idaho, whether conducted by a compensated employee, agent, or representative of an institution, or by volunteer alumnus of an institution, even if such individual is physically located in this state. ()

04. Institutions Exempt from Registration. ()

a. Idaho public postsecondary educational institutions. Section 33-2402(1), Idaho Code, provides that a public institution supported primarily by taxation from either the state of Idaho or a local source in Idaho shall not be required to register. ()

b. Certain Idaho private, nonprofit, postsecondary educational institutions. A private, nonprofit, postsecondary educational institution that is already established and operational as of the date when this rule first went into effect (Brigham Young University - Idaho, College of Idaho, Northwest Nazarene University, New Saint Andrews College, Boise Bible College), and located within the state of Idaho, and that is accredited by an accreditation organization recognized by the Board, as set forth in Section 100 of this rule, shall not be required to register. A private, nonprofit, institution is located within the state of Idaho only if it has been lawfully organized in the state of Idaho and its principal place of business is located within the state of Idaho. An institution exempt under this subsection may voluntarily register by following the procedure for registration provided herein. ()

c. Idaho religious institutions. A religious institution located within the state of Idaho that is owned, controlled, operated, and maintained by a religious organization lawfully operating as a nonprofit religious corporation and that grants only religious degrees shall not be required to register. ()

05. Institutions That Must Register. Unless exempt under Subsection 200.04 of this rule, any entity that desires to operate as a postsecondary educational institution in Idaho must register as provided herein. ()

06. Application. A postsecondary educational institution that is required to register under this rule must submit to the Board office an application for registration (either an application for initial registration or renewal of registration, as applicable), on the form provided by the Board office. The application must include a list of each course, course of study, and degree the applicant institution intends to conduct, provide, offer, or sell in Idaho during the registration year. ()

07. Registration Fees. The Board shall assess an annual registration fee for initial registration or renewal of registration of a postsecondary educational institution. The registration fee must accompany the application for registration, and shall be in the amount of 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). The institution must provide financial documentation to substantiate the amount of revenue reported. Registration fees are nonrefundable. ()

08. Deadline for Registration. An initial application for registration may be submitted to the Board at anytime. An institution should expect the Board’s review process for an initial registration to take approximately three (3) to five (5) months. An application for renewal of registration must be submitted to the Board on or before the first business day of May that precedes the registration year. The renewal will be processed within thirty (30) days. Institutions that do not adhere to this schedule and whose renewals are not processed by July 1st must cease all active operations until approval of registration is received. ()

09. Information Required. ()

a. An application must include all the information requested on the application form, as well as the following information: ()

i. Copy of most recent accreditation letter showing the period of approval; ()

**IDAHO ADMINISTRATIVE CODE
State Board of Education**

**IDAPA 08.01.11 – Registration of Postsecondary
Educational Institutions & Proprietary Schools**

- ii. Current list of chief officers - e.g. president, board chair, chief academic officer, chief fiscal officer; ()
 - iii. Enrollment data for current and past two (2) years; ()
 - iv. Copy of annual audited financial statement, or other financial instrument as established by the executive director; ()
 - v. Any additional information that the Board may request. ()
 - vi. All advertising, pamphlets, and other literature used to solicit students and all contract forms must accurately represent the purpose of the school, its courses or courses of study, and other relevant information to assist students in making an informed decision to enroll. Institutions offering courses or courses of study which require clinical, practicum or internship components must provide students in writing information regarding the number of clinical, practicum or internship positions available and the location of said positions. Institutions with courses or courses of study that have not been fully accredited must disclose to prospective students in these courses or courses of study the accreditation status of the program and anticipated date for full accreditation. ()
- b.** The Board may, in connection with a renewal of registration, request that an institution only submit information that documents changes from the previous year, provided that the institution certifies that all information and/or documentation submitted in a previous registration year remains current. The annual registration fee, described in Subsection 200.07 of this rule, shall remain applicable. ()

(BREAK IN CONTINUITY OF SECTIONS)

300. REGISTRATION OF PROPRIETARY SCHOOLS.

01. Delegation. Section 33-2403, Idaho Code, provides that a proprietary school must hold a valid certificate of registration issued by the Board. The Board delegates authority to its Executive Director and the Office of the State Board of Education to administer the registration of proprietary schools, in accordance with Title 33, Chapter 24, Idaho Code, and this rule. ()

02. Registration Requirement. ()

a. Unless exempted by statute or this rule, as provided herein, a proprietary school which maintains a presence within the state of Idaho, or which operates or purports to operate from a location within the state of Idaho, shall register annually and hold a valid certificate of registration issued by the Board. A school shall not conduct, provide, offer, or sell a course or courses of study unless registered. A school shall not solicit students for or on behalf of such school, or advertise in this state, unless registered. ()

b. Registration shall be for the period beginning July 1 of any year and continue through June 30 of the next succeeding year. For a school that has not previously registered with the Board, registration shall be for the period beginning on the date of issuance of a certificate of registration and continue through June 30 of the next succeeding year. A registered proprietary school must renew its certificate of registration annually and renewal of registration is not automatic. ()

c. Renewal of registration shall be for the period beginning on July 1 of any year, and continue through June 30 of the next succeeding year. ()

03. Idaho Presence. ()

a. A school shall be deemed to have a presence in Idaho, or to be operating or purporting to be operating from a location within the state of Idaho, or if it owns, rents, leases, or uses any office or other type of physical location in Idaho, including a mailing or shipping center, or if it represents in any way, such as on an

electronic or Internet website, to have an Idaho street or mailing address, including a post office box in Idaho, for purposes of conducting, providing, offering or selling a course or courses of study or degrees. ()

b. Idaho presence shall not include: ()

i. Distance or online education delivered by an institution located outside of the state of Idaho to students in this state when the institution does not otherwise have physical presence in Idaho, as provided in Subsection 300.03.a. of this rule; ()

ii. Internship or cooperative training programs occurring in the state of Idaho where students are employed by or provide services to a business or company in this state and receive course credit from an institution related to such activities; or ()

iii. Activities limited to the recruiting or interviewing of applicants or potential students in the state of Idaho, whether conducted by a compensated employee, agent, or representative of an institution, or by volunteer alumnus of an institution, even if such individual is physically located in this state. ()

04. Exemptions from Registration. The following individuals or entities are specifically exempt from the registration requirements of this rule: ()

a. An individual or entity that offers instruction or training solely avocational or recreational in nature, as determined by the Board. ()

b. An individual or entity that offers courses recognized by the Board which comply in whole or in part with the compulsory education law. ()

c. An individual or entity that offers a course or courses of study sponsored by an employer for the training and preparation of its own employees, and for which no tuition fee is charged to the student. ()

d. An individual or entity which is otherwise regulated, licensed, or registered with another state agency pursuant to Title 54, Idaho Code. ()

e. An individual or entity that offers intensive review courses designed to prepare students for certified public accountancy tests, public accountancy tests, law school aptitude tests, bar examinations or medical college admissions tests, or similar instruction for test preparation. ()

f. An individual or entity offering only workshops or seminars lasting no longer than three (3) calendar days and offered no more than four (4) times per year. ()

g. A parochial or denominational institution providing instruction or training relating solely to religion and for which degrees are not granted. ()

h. An individual or entity that offers postsecondary credit through a consortium of public and private colleges and universities under the auspices of the Western Governors University. ()

i. An individual or entity that offers flight instruction and that accepts payment for services for such training on a per-flight basis after the training occurs, or that accepts advance payment or a deposit for such training in a de minimus amount equal to or less than fifteen (15) percent of the total course or program cost. ()

05. Application. A proprietary school that is required to register under this rule must submit to the Board office an application for registration (either an application for initial registration, or renewal of registration, as applicable), on a form provided by the Board office. The application must include a list of each course or courses of study the applicant school intends to conduct, provide, offer or sell in Idaho during the registration year. ()

06. Registration Fees. The Board shall assess an annual registration fee for initial registration or renewal of registration. The registration fee must accompany the application for registration, and shall be one-half of one percent (.5%) of the gross Idaho tuition revenue of the school during the previous tax reporting year (Jan 1 - Dec

IDAHO ADMINISTRATIVE CODE
State Board of Education

**IDAPA 08.01.11 – Registration of Postsecondary
Educational Institutions & Proprietary Schools**

31), but not less than one hundred dollars (\$100) and not to exceed five thousand dollars (\$5,000). The school shall provide documentation to substantiate the amount of revenue reported. Registration fees are nonrefundable. ()

07. Deadline for Registration. An initial application for registration may be submitted to the Board at anytime. A school should expect the Board review process for an initial registration to take approximately three (3) to five (5) months. An application for renewal of registration must be submitted to the Board on or before the first business day of May that precedes the registration year. The renewal will be processed within thirty (30) days. Institutions that do not adhere to this schedule and whose renewals are not processed by July 1st must cease all active operations until approval of registration is received. ()

08. Information Required. Such application must include all the information requested on the application form. In addition, a school must attest by signature of the primary official on the application form that it is in compliance with Standards I through V set forth in Section 301 of this rule and must provide verification of compliance with Standards I through V set forth in Section 301 of this rule upon request. The Board may, in connection with a renewal of registration, request that a school only submit information that documents changes from the previous year, provided that the school certifies that all information and/or documentation submitted in a previous registration year remains current. The annual registration fee, described in Subsection 300.06 of this rule, shall remain applicable. ()

08.02.02 – RULES GOVERNING UNIFORMITY

(BREAK IN CONTINUITY OF SECTIONS)

066. FEES.

The state Department of Education shall maintain a record of all certificates issued, showing names, dates of issue and renewal, and if revoked, the date thereof and the reason therefor. A nonrefundable fee shall accompany each application for a prekindergarten through grade twelve (12) certificate, alternate certificate, change in certificate or replacement as follows: ()

- 01. Initial Certificate. All types, issued for five (5) years -- seventy-five dollars (\$75). ()
- 02. Renewal Certificate. All types, issued for five (5) years -- seventy-five dollars (\$75). ()
- 03. Alternate Route Authorization. All types, issued for one (1) year -- one hundred dollars (\$100). ()
- 04. Additions or Changes During the Life of an Existing Certificate. Twenty-five dollars (\$25). ()
- 05. To Replace an Existing Certificate. Ten dollars (\$10). ()

(BREAK IN CONTINUITY OF SECTIONS)

075. FINGERPRINTING AND BACKGROUND INVESTIGATION CHECKS (SECTIONS 33-130 AND 33-512, IDAHO CODE).

All individuals who are required by the provisions of Section 33-130, Idaho Code, must undergo a background investigation check. ()

- 01. Definitions. ()
 - a. Applicant. An individual completing a background investigation check as identified in Subsection 075.02 of these rules. ()
 - b. Background Investigation Check. The submission of a completed applicant fingerprint card or scan by an authorized entity submitted under an enacted state statute/local ordinance or federal law, approved by the Attorney General of the United States allowing a search of the state and federal criminal history indices for non-criminal justice purposes including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances. ()
 - c. Background Investigation Check Result. The response to a state and federal background investigation check initiated by a fingerprint submission from an authorized entity for non-criminal justice purposes. Results are returned to the submitting authorized entity by the state criminal history repository (Idaho State Police Bureau of Criminal Investigation). ()
 - d. Break-in-Service. A voluntary or involuntary termination in employment, including retirement. ()
 - e. Candidate. An individual attending a postsecondary program. ()
 - f. Contractor. An agency, company/business, or individual that has signed a contract or agreement to provide services to an LEA and private or parochial school. ()
 - g. Employee. A person who is hired for a wage, salary, fee, or payment to perform work for an employer. ()

IDAHO ADMINISTRATIVE CODE
State Board of Education

IDAPA 08.02.02
Rules Governing Uniformity

h. Fingerprint Card or Scan. The process for obtaining impressions of an individual's fingerprint images, both ten (10) individual finger impressions rolled from nail to nail and slap or flat impressions taken simultaneously without rolling. Fingerprints may be recorded utilizing either an inked standard fingerprint card or using a livescan device. Standard fingerprint cards may also be scanned for submission to the state repository for background investigation check purposes. ()

i. Rejected Fingerprint Cards or Scans. A fingerprint card or scan that has been returned by the Idaho State Police Bureau of Criminal Identification or Federal Bureau of Investigation for poor quality prints. ()

j. Unsupervised Contact. Direct contact or interaction with students not under the direct supervision of an LEA employee in a K-12 setting. This includes contact or interaction with students in scheduled school activities that occur outside of the school or outside of normal school hours. ()

02. Individuals Required to Complete a Background Investigation Check. ()

a. All applicants for certificates; ()

b. Certificated and noncertificated employees; ()

c. Substitute teachers; ()

d. Contractors who have unsupervised contact with students in a public K-12 setting, including contractors who are providing student services; ()

e. Student teachers or any postsecondary candidates who have unsupervised contact with students in a public K-12 setting; ()

f. Volunteers who have unsupervised contact with students in a public K-12 setting; ()

g. Any individuals who have unsupervised contact with students in a public K-12 setting. ()

03. Fee. The SDE shall charge a fee for undergoing a background investigation check pursuant to Section 33-130, Idaho Code. ()

04. Rejected Fingerprint Cards or Scans. ()

a. When a fingerprint card has been rejected a new completed fingerprint card is required. ()

b. The rejected fingerprint card will be sent back to the originating LEA, private or parochial school, contractor, postsecondary program, or individual. ()

c. A new fingerprint card must be completed by a law enforcement agency to ensure legible fingerprints. Both the rejected fingerprint card and the new fingerprint card must be returned to the SDE within thirty (30) calendar days. ()

d. If the new fingerprint card and rejected fingerprint card are returned after thirty (30) calendar days, a fee, pursuant to Subsection 075.03 of these rules, is required to be paid. ()

05. Secured Background Investigation Check Website. The SDE will maintain a background investigation check website listing the background investigation check results for review by the LEA, private or parochial school, contractor or postsecondary program. Each LEA, private or parochial school, contractor and postsecondary program will have access to the background investigation check secure site listing their employees, statewide substitute teacher list, and student teacher list. ()

06. Background Investigation Checks for Certification. ()

a. The SDE will make the final determination if an applicant is eligible for Idaho certification. ()

b. If the SDE makes a determination that the applicant is not eligible for Idaho certification, the SDE may deny the applicant Idaho certification. Upon receiving the written denial, the applicant may request a hearing pursuant to Section 33-1209, Idaho Code. ()

07. Substitute Teachers. Substitute teachers as defined in Section 33-512(15), Idaho Code, must undergo a background investigation check. The SDE shall maintain a statewide substitute teacher list. To remain on the list a substitute teacher shall undergo a background investigation check every five (5) years in accordance with Section 33-512, Idaho Code. ()

08. Break In Service. ()

a. When an employee returns to any LEA, private or parochial school, or contractor after a break in service, a new background investigation check must be completed pursuant to Section 33-130, Idaho Code. ()

b. When an employee changes employment between LEAs a new background investigation check must be completed pursuant to Section 33-130, Idaho Code. ()

09. Postsecondary. ()

a. The postsecondary program will submit a completed fingerprint card or scan for all candidates who are applying for unsupervised contact with students in a public K-12 setting including student teaching, internships, or other types of candidate training. ()

b. The SDE will make a preliminary determination based on the CHC result if the candidate is eligible for certification in Idaho. This decision will be forwarded to the postsecondary program concerning the eligibility of their candidate. ()

08.02.03 – RULES GOVERNING THOROUGHNESS

(BREAK IN CONTINUITY OF SECTIONS)

128. CURRICULAR MATERIALS SELECTION AND ONLINE COURSE APPROVAL (SECTIONS 33-118; 33-118A, IDAHO CODE).

The State Board of Education will appoint a committee to select curriculum materials. Committee appointments will be for a period of five (5) years. Committee appointments shall consist of not less than ten (10) total members from the following stakeholder groups: certified Idaho classroom teachers, Idaho public school administrators, Idaho higher education officials, parents, trustees, local board of education members, members of the Division of Career Technical Education, and State Department of Education personnel. The Executive Secretary will be an employee of the State Department of Education and will be a voting member of the committee. The State Department of Education shall charge publishers submission fees of sixty dollars (\$60) or equal to the retail price of each, whichever is greater, to defray the costs incurred in the curricular material review and adoption process. ()

01. Subject Areas. Curricular materials are adopted by the State Board of Education for a period of six (6) years in the following subject areas: reading, English, spelling, speech, journalism, languages other than English, art, drama, social studies, music, mathematics, business education, career education and counseling, vocational/technical education, science, health, physical education, handwriting, literature, driver education, limited English proficiency. ()

02. Multiple Adoptions. Multiple adoptions are Made in Each Subject Area. ()

03. Bids. Each publisher must deliver, according to the committee schedule, a sealed bid on all curricular materials presented for adoption. ()

04. Depository. The State Board will appoint a depository for the state-adopted curricular materials. Resource materials are a local option. ()

05. Local Policies. School districts will follow their own policies for adoption in subject areas offered by a school district for which materials are not covered by the state curriculum materials committee. ()

06. Online Course Review and Approval Process. The State Department of Education shall administer the review and approval of online course providers and courses. Reviewers shall be certified Idaho classroom teachers. Online course providers are approved for a period of four (4) years. The State Department of Education shall charge online course providers submission fees based on the number of courses offered, not to exceed the actual costs incurred in the online course and course provider review and approval process. ()