



**STATE BOARD OF EDUCATION MEETING
November 23, 2020**

**Office of the State Board of Education
Len B. Jordan Building
650 W State Street, 3rd Floor
Boise, Idaho**

YouTube Live Streaming:

<https://www.youtube.com/channel/UC7j4VGGyNzPa6g6a-zVTHnA>

Audio Only:

1 (877) 820-7831, Passcode: 7483005 (listen only)

Monday, November 23, 2020, 3:00 p.m. (Mountain Daylight Time)

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS

1. Temporary and Pending Rule – Docket 08-0201-2001 – Average Daily Attendance and Full-Time Equivalent Enrollment Reporting – Action Item
2. Pending Rule – Docket 08-0202-2002 – Educator Certification – Action Item
3. Pending Rule – Docket 08-0501-2001 – Seed Certification (Chapter Repeal) – Action Item
4. Pending Rule – Docket 47-0101-2001 – Vocational Rehabilitation Services – Action Item

**PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020**

TAB	DESCRIPTION	ACTION
1	TEMPORARY AND PENDING RULE – DOCKET 08-0201-2001 – AVERAGE DAILY ATTENDANCE AND FULL-TIME EQUIVALENT ENROLLMENT REPORTING	Action Item
2	PENDING RULE – DOCKET 08-0202-2002 – EDUCATOR CERTIFICATION	Action Item
3	PENDING RULE – DOCKET 08-0501-2001 – SEED CERTIFICATION (CHAPTER REPEAL)	Action Item
4	PENDING RULE – DOCKET 47-0101-2001 – VOCATIONAL REHABILITATION SERVICES	Action Item

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

SUBJECT

Temporary and Pending Rule – IDAPA 08.02.01, Rules Governing Administration, Average Daily Attendance and Full-time Equivalency Enrollment Reporting

REFERENCE

August 2019	Board considered and rejected a proposed rule, Docket 08-0102-1901, setting reporting requirements for enrollment FTE and directed staff to bring back a temporary rule at the conclusion of planned visits in each of the regions to gather feedback.
October 2019	Board approved temporary rule establishing the enrollment FTE in a substantially similar format as presented at the Regular August Board meeting.
August 2020	Board approved temporary and proposed rule setting reporting criteria for average daily attendance and full-time equivalent enrollment reporting and waived the GED application fee.

APPLICABLE STATUTE, RULE, OR POLICY

Sections 33-1001, 33-1002, 33-1003, 33-1003A, 33-1027, 33-1028, and 33-1619, Idaho Code
Idaho Administrative Code, IDAPA 08.02.01, Rules Governing Administration

BACKGROUND/DISCUSSION

Multiple draft bills were circulated during the 2019 legislative session rewriting the public school funding formula. Of these drafts three bills were printed. Two senate bills, SB1186 and SB1196 proposed rewriting the public schools funding formula to a “student centered” model based on student enrollment and per student funding amounts rather than an “allocation” model based on average daily attendance of students and personnel costs (salary based apportionment). A number of amendments were made throughout the process to try and reconcile the desired legislative policy change with education stakeholders’ concerns. Common ground between these two groups was not found during the 2019 session. While no new funding formula was enacted, HB293 (2019) was passed. HB293 established definitions that were proposed in the earlier public school funding formula bills, and moved the definition of At-Risk Student from Idaho Administrative Code to Idaho Code (statute). Additionally, the Board was tasked with collecting and reporting the necessary data for calculating full-time equivalent student enrollment. HB293 (2019) added a new Section 33-1027, Idaho Code, directing the Board to promulgate rules necessary to determine how full time equivalent enrollment would be calculated and reported. In order to provide additional time for feedback and analysis of FTE enrollment reporting the temporary rule was allowed to expire at the end of the 2020 Legislative Session.

Due to the temporary nature of the rule approved by the Board in 2019, the enrollment reporting rule was scheduled to come back to the Board as a temporary

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

and proposed rule for the 2020-2021 rulemaking cycle. In March, the impacts of the Coronavirus and soft closures started to hit schools, school district and charter schools. Because of these impacts, public school administrators requested the Board look at ways schools could report average daily attendance, given the various scenarios for continuing to instruct students that were happening around the state, when students were longer being taught in the buildings or when schools might be using multiple education modalities to instruct students. The previous requirement that students be physically present to be counted as part of a brick and mortar schools average daily attendance and the challenges with attendance reporting during a pandemic, made it necessary for the Board to consider reporting attendance differently than it had been in the past.

A new temporary and proposed rule was approved by the Board at the August 2020 Regular Board meeting. The new rule incorporated much of what was included in the 2019 rule on FTE enrollment reporting and incorporated a methodology for using FTE enrollment for reporting average daily attendance. The portion of the temporary and proposed rule for reporting and calculating FTE enrollment looks at students who attend one school district or charter school (i.e. local education agency or LEA) and those students that attend more than one LEA. Section 33-1027, Idaho Code, requires the FTE be based on the courses in which the student is enrolled. Because LEAs are authorized to set their own local school year schedules, there are variances in types of schedules around the state. Schools having semester schedules, trimester schedules, or year-round schedules with varying lengths of time for class periods, this complicates the calculations for sharing the FTE enrollment between schools when they share students. Additionally, within these three types of annual schedules there are some LEAs that have four-day school weeks with longer class periods, some with block schedules where the student has a class two or three days a week with alternating classes over a two week period, and the more traditional shorter class periods with the course being taken each day of the week. Due to these complexities, consensus could not be reached in 2019 on a methodology by which to fractionalize the number of courses. The current calculation for average daily attendance is based on weighting students' attendance when shared between two or more LEA's by the 2.5 hours (half-day) or 4 hours (full-day) used for calculating average daily attendance. Using this concept, the courses could be broken out to minutes per week, with 1 FTE equaling 1,200 minutes per week or more. This is consistent with the current four-hour requirement to be counted as a full day of attendance when calculating average daily attendance.

As a result of the statutory requirement limiting each student to no more than one (1) FTE, each LEA that serves students taking more courses than a full course load through two or more LEAs must report less FTE for that student than what they would report for a student taking a full course load from one LEA. While some students in grades 7 through 12 may be eligible for overload course funding through the Fast Forward (Advanced Opportunities) program, this funding is not equivalent to the funding provided through the public schools appropriation for a

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

full day of average daily attendance. Additionally, this program is not available to students in grade 6 or lower that may be enrolled in two or more LEAs and take more courses than what would normally be consider a full day.

Board and State Department of Education (Department) staff worked with representatives from the school districts to develop the provisions for reporting FTE enrollment proposed in Docket 08-0201-2001. The group included school/district administrators, business officers, as well as the Department's fiscal staff, to name a few. In addition to seeking stakeholder feedback, Board staff and Board member Critchfield spoke with Utah and Washington education staff on how they count and fractionalize enrollment numbers. Both indicated they use some form of course time or minutes courses are in session to calculate FTE enrollment.

Section 33-1003A, Idaho Code, allows "...when a school is closed, or if a school remains open but attendance is significantly reduced because of storm, flood, failure of the heating plant, loss or damage to the school building, quarantine or order of any city, county or state health agency, or for reason believed by the board of trustees to be in the best interests of the health, safety or welfare of the pupils, the board of trustees having certified to the state department of education the cause and duration of such closure or impacted attendance, the average daily attendance for such day or days of closure or impacted attendance shall be considered as being the same as for the days when the school actually was in session or when attendance was not impacted." The condition created by the pandemic met the threshold established in Section 33-1003A, Idaho Code, for considering average daily attendance to be the same for those days the buildings were physically closed or attendance was impacted; however, due to the need for schools to move in and out of various modes of instruction, there is not a consistent way to apply this under the current circumstances that would account for each student that schools are providing instruction for across the state.

Section 33-1003, Idaho Code, provides some protection for school districts who see a three percent or more drop in average daily attendance. However, this protection does not apply to charter schools, and the reduced support units from one school district are made up from all school districts. Specifically, Section 33-1003, Idaho Code provides, "[f]or any school district that has a decrease in total average daily attendance of three percent (3%) or more of its average daily attendance in the current school year from the total average daily attendance used for determining the allowance in the educational support program for the prior school year, the allowance of funds from the educational support program may be based on the average daily attendance of the prior school year, less three percent (3%)." Preliminary numbers suggest the majority of school districts have seen a greater than 3% decrease in ADA than reported in FY20. Due to the way support units are reduced in one district to make up for the variance in other districts, this could result in school districts seeing a reduction in support units that is equivalent to a larger than 3% decrease in average daily attendance.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

Currently, Section 33-1619, Idaho Code, allows all schools reporting average daily attendance for virtual and blended programs to report students based on either the “actual hours of attendance in the public virtual school on a flexible schedule, or the percentage of coursework completed.” As schools move between online, blended, and in-person instruction for students in the 2020-2021 school year, these provisions could be applied.

Section 33-1002(3), Idaho Code, requires the Board to “establish rules setting forth the procedure to determine average daily attendance and the time for, and method of, submission of such reports.” This procedure is established in IDAPA 08.02.01, and sets the reporting based on full-day and half-day attendance as noted above. IDAPA 08.02.01 also requires students to be physically present to be counted. This requirement does not apply to students in a virtual or blended instructional program, pursuant to Section 33-1619, Idaho Code.

Board staff have worked with Department staff and a group of administrators and school district business officers to come to consensus on a methodology that would broaden the narrow definition of daily attendance to accommodate for students receiving instruction through different blended learning modalities as well as when buildings are required to close or have only limited access and student instruction in continuing remotely. This would include virtual courses and hybrid courses as well as instances where a student is attending in-person and then the building needs to close and the student transitions for a short period of time to virtual learning or when a student or group of students were attending in-person instruction must quarantine and receive instruction remotely during this time period. The consensus of the group was the proposed rule approved by the Board at the August 2020 Regular Board meeting. This rule allowed school districts and charter schools to use the enrollment reporting mechanism established for reporting FTE enrollment to identify the amount of time a student is receiving instruction as a proxy for the historical in-person attendance used for calculating average daily attendance.

The temporary portion of the rule sets the FTE enrollment reporting methodology required by Section 33-1027, Idaho Code, and amends the average daily attendance reporting methodology to allow for average daily attendance to be calculated based on the FTE enrollment methodology for fiscal year 2021. If approved by the Board, the pending rule will be forwarded to the legislature for consideration during the 2021 Legislative Session, and if accepted in its entirety would allow the FTE enrollment reporting methodology to be used for calculating average daily attendance in fiscal year 2022 and beyond or until such time as statutory changes are made or the rule is amended.

IMPACT

The temporary and pending rule will amend the FTE enrollment-reporting methodology approved by the Board at the August 2020 regular Board meeting to

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

accommodate feedback from stakeholders and will allow the Department to average the FTE enrollment reported to determine each school's average daily attendance numbers and subsequent support units and staff allowance for funding purposes. This methodology, based on the FY2020 reported FTE enrollment results in a slightly higher number of enrolled students than those counted through the methodology used for determine average daily attendance. Using FY2020 numbers the variance was approximately 2,000 full time students. Preliminary numbers reported in FY2021 shows a higher variance between projected average daily attendance and FTE equivalent enrollment due to the difficulty schools are experiencing with reporting attendance for students being instructed through remote and hybrid instruction. With this variance, the preliminary FTE enrollment numbers are showing an estimated 4% decline in overall students across the system. Should this trend bear out, the majority of the school districts and charter schools will see a reduction in their state funding that is generated based on support units. This funding constitutes the majority of their state funding. The Department has given LEAs until December 4th to correct their data used for calculating mid-term support units. Once all corrections have been made, data will be available to calculate the exact variances. It is unlikely at this time that corrected data will result in a greater number of support units than was approved in the FY2021 public schools budget.

ATTACHMENTS

Attachment 1 – Temporary/Pending rule Docket 08-0201-2001 – using average FTE Enrollment for reporting average daily attendance

STAFF COMMENTS AND RECOMMENDATIONS

During the public comment period, the Board's ISEE staff have been able to provide preliminary data that have identified a few areas where additional language is needed to account for the conversion from FTE enrollment for reporting purposes and using FTE enrollment for calculating average daily attendance. These areas include calculations for alternative summer school students and small technical clarifications. The average daily attendance calculations treat summer school students different for calculating summer school support units than support units are calculated for the rest of the school year. Additional language has been added to IDAPA 08.02.01.250.06 to account for the unique way support units are calculated for these programs.

Administrative rules are made up of three types of rules: temporary, proposed and pending. Temporary and proposed rules may be promulgated jointly with a single docket number or temporary rules may be promulgated as a standalone rule. A rule must go through the proposed rule and pending rule steps to become a final rule. Temporary rules go into effect at the time of Board approval unless an alternative effective date is specified by Board action. To qualify as a temporary rule, the rule must meet one of three criteria:

- provides protection of the public health, safety, or welfare; or

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

- is to come into compliance with deadlines in amendments to governing law or federal programs; or
- is conferring a benefit.

Temporary rules that are approved prior to the start of a legislative session expire at the end of that legislative session unless action is taken by the legislature to extend the rule. The legislature does not see temporary rules unless there is a specific request to extend the temporary rule past the close of the legislative session. Proposed rules approved by the Board are published in the Idaho Administrative Rules Bulletin. Following publication there is a 21-day comment period. Based on received comments and Board direction, changes may be made to proposed rules prior to entering the pending stage. Pending rules are then brought back to the Board for consideration. 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. Temporary rules may also be amended during the time they are in effect. At this time the Board is being asked to amend the temporary rule that is currently in place and approve the pending rule that incorporates the same amendments.

Additional comments were received from a handful of schools with concerns about the lower FTE enrollment numbers from what they reported as average daily attendance in FY2020. Board and Department staff explored the issue and found: (1) reporting based on average daily attendance was in compliance with Section 33-1002, Idaho Code; (2) that the previous full and half day attendance methodology would result in a steeper decline; and (3) that the FTE enrollment methodology was accounting for each student they were serving for the course periods they were being served.

Staff recommends approval.

BOARD ACTION

I move to approve the amended temporary and pending rule Docket 08-0201-2001, establishing enrollment full-time equivalencies reporting, 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)

007 **DEFINITIONS** (originally approved by the Board October 2019)

01. Course. A unit of instruction that may be determined based on the amount of instructional time or predetermined level of content and course outcomes.

02. Virtual Course. A course where instruction is provided in an on-line or virtual format and does not necessarily include face-to-face instruction.

(BREAK IN CONTINUITY OF SECTIONS)

250. PUPIL ACCOUNTING AND REQUIRED INSTRUCTIONAL TIME.

(Section 33-512, Idaho Code)

(4-1-97)

01. Required Instructional Time. Excluding transportation to and from school, lunch periods, passing times, and recess, schools must schedule at least the following instructional times: kindergarten, four hundred fifty (450) hours per year or equivalent amount of instruction through an online, distance, or blended learning format; grades one through three (1-3), eight hundred ten (810) hours per year or equivalent amount of instruction through an online, distance, or blended learning format; grades four through eight (4-8), nine hundred (900) hours per year or equivalent amount of instruction through an online, distance, or blended learning format; and grades nine through twelve (9-12), nine hundred ninety (990) hours per year or equivalent amount of instruction through an online, distance, or blended learning format. The equivalent amount of instruction shall be based on the amount of time reported for the same course or amount of coursework delivered in an in-person setting. (4-1-97)

02. Required Attendance. All pupils will complete four (4) years of satisfactory attendance in grades nine through twelve (9-12) to graduate from an accredited high school, except those who are approved for early graduation. (4-1-97)

03. Day in Session When Counting Pupils in Attendance. (4-1-97)

a. A school day for grades one through twelve (1-12) may be counted as a “day in session” when the school is open in session and students are under the guidance and direction of teachers in the teaching process for not less than four (4) hours or its equivalent of instruction per day. Lunch periods, breaks, passing time and recess will not be included in the four (4) hours. For kindergarten, each session will be at least two and one-half (2 1/2) hours per day. (4-1-97)

b. Half-day Session. A half-day in session occurs when the students in grades one through twelve (1-12) are under the guidance and direction of teachers in the teaching process for a minimum of two and one-half (2 1/2) hours of instruction or the teachers are involved in staff development activities for not less than two and one-half (2 1/2) hours. (4-1-97)

c. Teacher In-service Activities. For grades one through twelve (1-12), not more than twenty-two (22) hours may be utilized for teacher in-service activities, based on the district approved calendar. In the event a school district chooses to utilize full days instead of half-days, the attendance reported for these full days will be the average of the attendance for the other days of that same week. (4-1-97)

04. Day of Attendance - Kindergarten. A day of attendance for a kindergarten pupil is one in which

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

ATTACHMENT 1

a pupil is ~~physically present for a period of two and one-half (2 1/2) hours~~ under the direction and guidance of a teacher for a period of two and one-half (2 1/2) hours while school is in session or under homebound instruction. A homebound student is one who is unable to attend school for at least ten (10) consecutive days due to illness, accident or an unusual disabling condition. Attendance will be reported in half-day increments. Students attending less than half a day in session shall be aggregated by week. ~~Attendance reports for any day in the school year will reflect only those students physically present.~~ Particularly, enrollment figures are not to be used for the beginning nor closing weeks of school. (Section 33-1001(5), Idaho Code.) (4-1-97)

05. Day of Attendance (ADA) - Grades One Through Twelve (1-12). A day of attendance is one in which a pupil is ~~physically present for the full day~~ under the guidance and direction of a teacher or other authorized school district personnel while school is in session or is a homebound student under the instruction of a teacher employed by the district in which the pupil resides, with the exception as stated in “day in session” above. A homebound student is one who is unable to attend school for at least ten (10) consecutive days due to illness, accident or an unusual disabling condition. Attendance will be reported in full or half-days. ~~Attendance reports for any day in the school year will reflect only those students physically present or under homebound instruction.~~ (Section 33-1001(4), Idaho Code) (4-1-97)

06. Average Daily Attendance. Average daily attendance will be computed reported by averaging the full-time equivalent enrollment by week for students receiving instruction. To be considered as a student receiving instruction the student must have regular contact with the applicable instructional or pupil service staff member and be completing assignments as applicable to the grade range and course the student is enrolled in. For funding purposes enrollment in an alternative summer school program shall be based on the student attending 225 hours or more or the proportional share of hours up to one (1) average day of attendance. In a given school year, the annual average daily attendance for a given school is the aggregate scheduled days of attendance divided by the number of days school was actually in session. (Section 33-1001(2), Idaho Code) (4-1-97)

07. Full-Time Equivalent (FTE) Enrollment Reporting.

a. Kindergarten students enrolled in one LEA for a total number of courses that equal 600 or more minutes per week shall equal 0.5 FTE. Grade 1 through grade 12 students enrolled in one LEA for a total number of courses that equal 1,200 or more minutes per week shall equal one (1) FTE.

b. Kindergarten students enrolled in one or more LEAs for a total number of courses at all LEAs that equal 600 minutes per week or less, the FTE shall be based on the percentage of time each student’s courses are of 600 minutes. Grade 1 through grade 12 students enrolled in one or more LEAs for a total number of courses at all LEAs that equal 1,200 minutes per week or less, the FTE shall be based on the percentage of time each student’s courses are of 1,200 minutes.

c. Kindergarten students enrolled in more than one LEA for a total number of courses at all LEAs that equal 600 or more minutes per week and less than or equal to 750 minutes the FTE shall be fractionalized based on percentage of time for which the student is enrolled. Grade 1 through grade 12 students enrolled in more than one LEA for a total number of courses at all LEAs that equal 1,200 or more minutes per week and less than or equal to the respective amounts in the following subsections the FTE shall be fractionalized based on percentage of time for which the student is enrolled:

- i. Kindergarten: 750 minutes.
- ii. Grade 1 through grade 3: 1,350 minutes.
- ii. Grade 4 through grade 8: 1,500 minutes.
- iii. Grade 9 through grade 12: 1,650 minutes.

d. Students enrolled in more than one LEA for a total number of courses at all LEAs that equal more than the following minutes the FTE shall be based on the percentage of time for which the student is enrolled:

- i. Grade 1 through grade 3: 1,350 minutes.
- ii. Grade 4 through grade 8: 1,500 minutes.
- iii. Grade 9 through grade 12: 1,650 minutes.

e. Courses in LEAs with block scheduling that results in students attending courses for a period greater than one week in order to encompass all courses the student is enrolled in for the term will use average minutes per week over the applicable time period to determine the courses minutes per week.

f. Students enrolled in an alternative summer school or alternative night school program of two hundred twenty-five (225) or more hours of instruction may be counted as an additional point two five (.25) FTE.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

ATTACHMENT 1

Alternative summer school enrollment will be included in the October 1 reporting period.

g. Students enrolled in an alternative summer school or night school program of less than two hundred twenty-five (225) hours FTE will be determined based on the proportional share of two hundred twenty-five (225) hours the program consists of.

h. Students enrolled in more than one LEA in grade 7 through grade 12 shall count enrollment at all LEAs for determining eligibility of overload courses identified in Section 33-4601 and 33-4602, Idaho Code.

(BREAK IN CONTINUITY OF SECTIONS)

650. GENERAL EDUCATION DEVELOPMENT TESTS/IDAHO HIGH SCHOOL EQUIVALENCY CERTIFICATE.

The primary objective of the State Board of Education is to have all students complete their formal education and graduate from high school. However, students who drop out of school and believe it is in their best interest to take the (General Education Development) GED. test may do so under the following conditions and, upon successful completion of all GED requirements, may apply for an Idaho High School Equivalency Certificate (HSEC). (4-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

04. Idaho High School Equivalency Certificate. The State Department of Education will issue an Idaho High School Equivalency Certificate (HSEC) to eligible applicants. ~~The normal fee for issuing a certificate is ten dollars (\$10); however, this fee will be waived for military service personnel and veterans.~~ To be eligible to receive an HSEC, an applicant must submit the following documents to the Division of Career Technical Education:
~~(3-25-16)~~ T(8-26-20)

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

SUBJECT

Pending Rule Docket No. 08-0202-2002, Rules Governing Uniformity, Educator Credential

REFERENCE

August 2016	Board approved proposed rule restructuring instructional certificates into a single certificate and making technical updates to the Occupational Specialist Certificates.
November 28, 2016	Board approved pending rule restructuring instructional certificates into a single certificate and making technical updates to the Occupational Specialist Certificates.
August 31, 2017	Board approved proposed rule updating occupation specialist certification requirements, including additional training options for administrators and teachers.
November 2017	Board approved pending rule amendments
August 2018	Board approved proposed rule Docket 08-0202-1804 providing clarification regarding the professional endorsement and Docket 08-0202-1805 incorporating career technical educator endorsements into administrative rule.
November 2018	Board approved pending rule Docket 08-0202-1804, Professional Endorsement and Docket 08-0202-1805 CTE educator certification.
August 2020	Board approved proposed rule amending IDAPA 08.02.02 adding the advanced professional endorsement and aligning CTE educator certification with 2020 legislative changes.

APPLICABLE STATUTE, RULE, OR POLICY

Sections 33-1201 through 33-1204, Idaho Code
Sections 33-2211 and 33-2205, Idaho Code
Idaho Administrative Code, IDAPA 08.02.02, Rules Governing Uniformity

BACKGROUND/DISCUSSION

Administrative Code sets out the requirements for all certificated staff serving in Idaho public schools. In addition to the Standard Instructional Certificates, IDAPA 08.02.02.015, Educator Credential, outlines the provisions for career technical education educator certification requirements. Three levels of Industry-based Occupational Specialist Certificates exist: Limited Occupational Specialist, Standard Occupational Specialist, and Advanced Occupational Specialist. Individuals entering the field of career technical teaching for the first time receive a Limited Occupational Specialist Certificate. This is a one time, three year certificate. At the conclusion of the term of this certificate, individuals may apply for either a Standard

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

Occupational Specialist Certificate or an Advanced Occupational Specialist Certificate. The standard and advanced certificates are renewable five-year certificates. IDAPA 08.02.02.015.06 established the minimum amount of industry experience or combination of industry experience/certification and education and individual needed to be eligible for the industry-based occupational specialist certificates.

SB 1329 (2020) amended Section 33-2205, Idaho Code, setting out specific levels of experience necessary for individuals to receive an Occupational Specialist Certificate. Pursuant to Section 33-2205, Idaho Code, the Board shall authorize the issuance of a career technical education certificate to individuals who:

- (a) Submit to a criminal history check as described in Section 33-130, Idaho Code, and meet at least one (1) of the following criteria:
 - (i) Hold or have held an approved industry certification in a field closely related to the content area in which the individual seeks to teach as defined by the division of career technical education;
 - (ii) Demonstrate a minimum of six thousand (6,000) hours of professional experience in a field closely related to the content area in which the individual seeks to teach; or
 - (iii) Hold a baccalaureate degree in a field closely related to the content area in which the individual seeks to teach and demonstrate two thousand (2,000) hours of professional experience in a field closely related to the content area in which the individual seeks to teach; and
- (b) Complete an educator training program or courses approved by the division of career technical education.

The pending amendments to IDAPA 08.02.02.015 align the requirements for the Occupational Specialist Certificate to the limits in Section 33-2205, Idaho Code, and remove two endorsements that are now maintained in Board Policy IV.E. along with the other Career Technical Educator Endorsements and additional technical corrections.

In addition to the legislative changes made regarding career technical educator certification enacted in 2020, the legislature amended the provisions of Section 33-1201A, Idaho Code, adding a second endorsement for placement on the career ladder. In addition to the original Professional Endorsement necessary for placement on the professional compensation rung of the career ladder, there is now the Advanced Professional Endorsement for placement on the advanced profession compensation rung of the career ladder. Instructional and pupil service staff must meet certain performance criteria to be eligible for either endorsement. Section 33-1201A, Idaho Code, allows for instructional staff and pupil service staff to provide additional evidence demonstrating effective teaching that may be considered in exceptional cases for purposes of determining proficiency and student achievement in the event required standards for professional endorsement are not met. This provision allows for staff coming from out-of-state who

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

have held a certificate for three (3) or more years to provide evidence that they have met the professional compensation rung performance criteria for two (2) or three (3) previous years or the third (most recent) year. This evidence could be in the form of evaluations from the state they are coming from that are aligned with the Idaho evaluation standards or evidence that the majority of their students during the applicable time period met their student achievement performance targets. HB523 (2020) amended this section of code, adding the Advanced Professional endorsement with the same provision allowing additional evidence to be provided to demonstrate the individual meets the requirements for the endorsement. The proposed amendments update IDAPA 08.02.02.028 to include the Advanced Professional Endorsement and reference the sections of code where the specific performance criteria are established.

IMPACT

Approval of the pending rule will bring it into alignment with the statutory changes and allow it to be published in the Administrative Bulletin as a pending or final rule and then forwarded to the 2021 Legislature for consideration.

ATTACHMENTS

Attachment 1 – Pending Rule Docket 08-0202-2002

STAFF COMMENTS AND RECOMMENDATIONS

Administrative rules are made up of three types of rules: temporary, proposed and pending. Proposed rules approved by the Board are published in the Idaho Administrative Rules Bulletin. Following publication there is a 21-day comment period. Based on comments received and Board direction, changes may be made to proposed rules prior to entering the pending stage. Pending rules are then brought back to the Board for final consideration. Once approved, pending rules are 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, in whole or in part, by the legislature.

There were no comments received during the public comment period for this docket. No changes have been made to the rule from the proposed to the pending stages. Staff recommends approval.

BOARD ACTION

I move to approve pending rule Docket 08-0202-2002, as submitted in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

08.02.02 – RULES GOVERNING UNIFORMITY

015. IDAHO EDUCATOR CREDENTIAL.

The State Board of Education authorizes the State Department of Education to issue certificates and endorsements to those individuals meeting the specific requirements for each area provided herein.(3-25-16)

01. Standard Instructional Certificate. A Standard Instructional Certificate makes an individual eligible to teach all grades, subject to the grade ranges and subject areas of the valid endorsement(s) attached to the certificate. A standard instructional certificate may be issued to any person who has a baccalaureate degree from an accredited college or university and who meets the following requirements: (3-29-17)

a. Professional education requirements: (3-29-17)

i. Earned a minimum of twenty (20) semester credit hours, or thirty (30) quarter credit hours, in the philosophical, psychological, methodological foundations, instructional technology, and in the professional subject matter, which shall include at least three (3) semester credit hours, or four (4) quarter credit hours, in reading and its application to the content area; (3-29-17)

ii. The required minimum credit hours must include at least six (6) semester credit hours, or nine (9) quarter credit hours, of student teaching in the grade range and subject areas as applicable to the endorsement; and (3-29-17)

b. Completed an approved educator preparation program and have an institutional recommendation from an accredited college or university specifying the grade ranges and subjects for which they are eligible to receive an endorsement in; (4-11-19)

c. Individuals seeking endorsement must complete preparation in at least two (2) fields of teaching. One (1) of the teaching fields must consist of at least thirty (30) semester credit hours, or forty-five (45) quarter credit hours and a second field of teaching consisting of at least twenty (20) semester credit hours, or thirty (30) quarter credit hours. Preparation of not less than forty-five (45) semester credit hours, or sixty-seven (67) quarter credit hours, in a single subject area may be used in lieu of the two (2) teaching field requirements; (3-20-20)

d. Proficiency in areas noted above is measured by completion of the credit hour requirements provided herein. Additionally, each candidate must meet or exceed the state qualifying score on the state board approved content area and pedagogy assessments. (3-29-17)

e. The Standard Instructional Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the certificate. (3-29-17)

02. Pupil Service Staff Certificate. Persons who serve as school counselors, school psychologists, speech-language pathologists, school social workers, school nurses and school audiologists are required to hold the Pupil Service Staff Certificate, with the respective endorsement(s) for which they qualify. Persons who serve as an occupational therapist or physical therapist may be required, as determined by the local educational agency, to hold the Pupil Service Staff Certificate with respective endorsements for which they qualify. (3-28-18)

a. School Counselor (K-12) Endorsement. To be eligible for a Pupil Service Staff Certificate - School Counselor (K-12) endorsement, a candidate must have satisfied the following requirements. The Pupil Service Staff Certificate with a School Counselor (K-12) endorsement is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the endorsement. (3-28-18)

i. Hold a master's degree and provide verification of completion of an approved program of graduate study in school counseling, including sixty (60) semester credits, from a college or university approved by the Idaho State Board of Education or the state educational agency of the state in which the program was completed. The program must include successful completion of seven hundred (700) clock hours of supervised field experience, seventy-five percent (75%) of which must be in a K-12 school setting. This K-12 experience must be in each of the following levels: elementary, middle/junior high, and high school. Previous school counseling experience may be considered to help offset the field experience clock

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

ATTACHMENT 1

- hour requirement; and (3-20-20)
- ii. An institutional recommendation is required for a School Counselor (K-12) endorsement. (3-28-18)
 - b. School Counselor – Basic (K-12) Endorsement.** (3-28-18)
 - i. Individuals serving as a school counselor pursuant to Section 33-1212, Idaho Code, shall be granted a Pupil Service Staff Certificate with a School Counselor – Basic (K-12) endorsement. The endorsement is valid for five (5) years or until such time as the holder no longer meets the eligibility requirements pursuant to Section 33-1212, Idaho Code. Six (6) semester credit hours are required every five (5) years in order to renew the endorsement. (4-11-19)
 - ii. Individuals who received their endorsement pursuant to Section 33-1212, Idaho Code, prior to July 1, 2018, will be transitioned into the School Counselor – Basic (K-12) endorsement. Renewal date will remain the same as the initial credential. (3-28-18)
 - c. School Psychologist Endorsement.** This endorsement is valid for five (5) years. In order to renew the endorsement, six (6) professional development credits are required every five (5) years. The renewal credit requirement may be waived if the applicant holds a current valid National Certification for School Psychologists (NCSP) offered through the National Association of School Psychologists (NASP). To be eligible for initial endorsement, a candidate must complete a minimum of sixty (60) graduate semester credit hours which must be accomplished through one (1) of the following options: (3-25-16)
 - i. Completion of an approved thirty (30) semester credit hour, or forty-five (45) quarter credit hours, master's degree in education or psychology and completion of an approved thirty (30) semester credit hour, or forty-five (45) quarter credit hour, School Psychology Specialist Degree program, and completion of a minimum of twelve hundred (1,200) clock-hour internship within a local education agency under the supervision of the training institution and direct supervision of a certificated school psychologist; (3-20-20)
 - ii. Completion of an approved sixty (60) semester credit hour, or ninety (90) quarter credit hour, master's degree program in School Psychology, and completion of a minimum of twelve hundred (1,200) clock-hour internship within a local education agency under the supervision of the training institution and direct supervision of a certificated school psychologist; (3-20-20)
 - iii. Completion of an approved sixty (60) semester credit hour, or ninety (90) quarter credit hour, School Psychology Specialist degree program which did not require a master's degree as a prerequisite, with laboratory experience in a classroom, which may include professional teaching experience, student teaching or special education practicum, and completion of a minimum twelve hundred (1,200) clock-hour internship within a local education agency under the supervision of the training institution and direct supervision of a certificated school psychologist; and (3-20-20)
 - iv. Earn a current and valid National Certification for School Psychologists (NCSP) issued by the National Association of School Psychologists (NASP). (3-25-16)
 - d. Interim Endorsement – School Psychologist.** This endorsement will be granted for those who do not meet the educational requirements but hold a master's degree in school psychology and are pursuing an educational specialist degree. This non-renewable endorsement will be issued for three (3) years while the applicant is meeting the educational requirements. (3-20-20)
 - e. School Nurse Endorsement.** This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. Initial endorsement may be accomplished through completion of either requirements in Subsections 015.02.c.i. or 015.02.c.ii. (4-11-19)
 - i. The candidate must possess a valid professional nursing (RN) license issued by the Idaho State Board of Nursing, and a baccalaureate degree in nursing, education, or a health-related field from an accredited institution. (4-11-19)
 - ii. The candidate must possess a valid professional nursing (RN) license issued by the Idaho State Board of Nursing; have two (2) years of full-time (or part-time equivalent) school nursing, community health nursing, or any other area of pediatric, adolescent, or family nursing experience; and have completed six (6) semester credit hours from a university or college in any of the following areas: (4-11-19)

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

ATTACHMENT 1

- (1) Health program management. (3-25-16)
 - (2) Nursing leadership. (4-11-19)
 - (3) Pediatric nursing or child development. (4-11-19)
 - (4) Population of community health. (4-11-19)
 - (5) Health care policy, ethics, or cultural competency. (4-11-19)
 - (6) Research and/or statistics. (4-11-19)
 - f.** Interim Endorsement - School Nurse. This endorsement will be granted for those who do not meet the educational and/or experience requirements but who hold a valid professional nursing (RN) license in Idaho. An Interim School Nurse Endorsement will be issued for three (3) years while the applicant is meeting the educational or experience requirements, or both, and it is not renewable. (4-11-19)
 - g.** Speech-Language Pathologist Endorsement. This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. The initial endorsement will be issued to candidates who possess a master's degree from an accredited college or university in a speech/language pathology program approved by the State Board of Education, and who receive an institutional recommendation from an accredited college or university. (3-25-16)
 - h.** Interim Endorsement - Speech-Language Pathologist. This endorsement will be granted for those who do not meet the educational requirements but hold a baccalaureate degree in speech-language pathology and are pursuing a master's degree. This endorsement will be issued for three (3) years while the applicant is meeting the educational requirements, and is not renewable. (3-20-20)
 - i.** Audiology Endorsement. This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. The initial endorsement will be issued to candidates who possess a master's degree from an accredited college or university in an audiology program approved by the State Board of Education, and who receive an institutional recommendation from an accredited college or university. (3-25-16)
 - j.** School Social Worker Endorsement. This endorsement is valid for five (5) years. Six (6) credit hours are required every five (5) years in order to renew the endorsement. Initial endorsement shall be accomplished by meeting the following requirements: (3-20-20)
 - i. A master's degree in social work (MSW) from a postsecondary institution accredited by an organization recognized by the State Board of Education. The program must be currently approved by the state educational agency of the state in which the program was completed; and (3-29-17)
 - ii. An institution recommendation from an Idaho State Board of Education approved program; and (3-29-17)
 - iii. The successful completion of a school social work practicum in a preschool through grade twelve 12 (Pre-K-12) setting. Post-LMSW extensive experience working with children and families may be substituted for the completion of a school social work practicum in a Pre-K-12 setting; and (3-20-20)
 - iv. A current and valid social work license pursuant to chapter 32, title 54, Idaho Code, and the rules of the State Board of Social Work Examiners. (3-20-20)
 - k.** Occupational Therapist Endorsement. A candidate with a current and valid Occupational Therapy license issued by the Occupational Therapy Licensure Board of Idaho will be granted an Occupational Therapist endorsement. The Pupil Service Staff Certificate with an Occupational Therapist endorsement is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the endorsement. Candidate must maintain current and valid Occupational Therapy Licensure for the endorsement to remain valid. (4-11-19)
 - l.** Physical Therapist Endorsement. A candidate with a current and valid Physical Therapy license issued by the Idaho Physical Therapy Licensure Board will be granted a Physical Therapist endorsement. The Pupil Service Staff Certificate with a Physical Therapist endorsement is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the endorsement. Candidate must maintain current and valid Physical Therapy Licensure for the endorsement to remain valid. (3-28-18)
- 03. Administrator Certificate.** Every person who serves as superintendent, director of special

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

ATTACHMENT 1

education, secondary school principal, or principal of an elementary school with eight (8) or more teachers (including the principal), or is assigned to conduct the summative evaluation of certified staff is required to hold an Administrator Certificate. The certificate may be endorsed for service as school principal, superintendent, or director of special education. Assistant superintendents are required to hold the Superintendent endorsement. Assistant principals or vice-principals are required to hold the School Principal endorsement. Directors of special education are required to hold the Director of Special Education endorsement. Possession of an Administrator Certificate does not entitle the holder to serve as a teacher at a grade level for which the educator is not qualified or certificated. All administrator certificates require candidates to meet the Idaho Standards for School Principals. The Administrator Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the certificate. (3-20-20)

a. School Principal (Pre-K-12) Endorsement. To be eligible for an Administrator Certificate endorsed for School Principal (Pre-K-12), a candidate must have satisfied the following requirements: (3-28-18)

- i. Hold a master's degree from an accredited college or university. (3-25-16)
- ii. Have four (4) years of full-time certificated experience working with students, Pre-K-12, while under contract in an accredited school setting. (3-25-16)
- iii. Have completed an administrative internship in a state-approved program, or have one (1) year of experience as an administrator in grades Pre-K-12. (3-25-16)
- iv. Provide verification of completion of a state-approved program of at least thirty (30) semester credit hours, forty-five (45) quarter credit hours, of graduate study in school administration for the preparation of school principals at an accredited college or university. This program shall include the competencies of the Idaho Standards for School Principals. (3-28-18)

v. An institutional recommendation is required for a School Principal (Pre-K-12) Endorsement. (3-28-18)

b. Superintendent (Pre-K-12) Endorsement. To be eligible for an Administrator Certificate with a Superintendent (Pre-K-12) endorsement, a candidate must have satisfied the following requirements: (3-28-18)

- i. Hold an education specialist or doctorate degree or complete a comparable post-master's sixth year program at an accredited college or university. (3-25-16)
- ii. Have four (4) years of full-time certificated/licensed experience working with Pre-K-12 students while under contract in an accredited school setting. (3-25-16)
- iii. Have completed an administrative internship in a state-approved program for the superintendent endorsement or have one (1) year of out-of-state experience as an assistant superintendent or superintendent in grades Pre-K-12. (3-25-16)
- iv. Provide verification of completion of an approved program of at least thirty (30) semester credit hours, or forty-five (45) quarter credit hours, of post-master's degree graduate study for the preparation of school superintendents at an accredited college or university. This program in school administration and interdisciplinary supporting areas shall include the competencies in Superintendent Leadership, in addition to the competencies in the Idaho Standards for School Principals. (3-28-18)

v. An institutional recommendation is required for a School Superintendent Endorsement (Pre-K-12). (3-28-18)

c. Director of Special Education (Pre-K-12) Endorsement. To be eligible for an Administrator Certificate endorsed for Director of Special Education (Pre-K-12), a candidate must have satisfied all of the following requirements: (3-28-18)

- i. Hold a master's degree from an accredited college or university; (3-25-16)
- ii. Have four (4) years of full-time certificated/licensed experience working with students Pre-K-12, while under contract in a school setting; (3-25-16)
- iii. Obtain college or university verification of demonstrated the competencies of the Director

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

ATTACHMENT 1

of Special Education in Idaho Standards for Initial Certification of Professional School Personnel; (3-28-18)

iv. Obtain college or university verification of demonstrated competencies in the following areas, in addition to the competencies in the Idaho Standards for School Principals: Concepts of Least Restrictive Environment; Post-School Outcomes and Services for Students with Disabilities Ages Three (3) to Twenty-one (21); Collaboration Skills for General Education Intervention; Instructional and Behavioral Strategies; Individual Education Programs (IEPs); Assistive and Adaptive Technology; Community-Based Instruction and Experiences; Data Analysis for Instructional Needs and Professional Training; Strategies to Increase Program Accessibility; Federal and State Laws and Regulations and School District Policies; Resource Advocacy; and Technology Skills for Referral Processes, and Record Keeping; (3-28-18)

v. Have completed an administrative internship in the area of administration of special education; and (4-11-19)

vi. An institutional recommendation is required for Director of Special Education (Pre-K-12) endorsement. (3-28-18)

04. Certification Standards For Career Technical Educators. Teachers of career technical courses or programs in secondary schools must hold an occupational specialist certificate and an endorsement in an appropriate occupational discipline. All occupational certificates must be approved by the Division of Career Technical Education regardless of the route an individual is pursuing to receive the certificate. (3-28-18)

05. Degree Based Career Technical Certification. (3-25-16)

a. Individuals graduating from an approved occupational teacher preparation degree program qualify to teach in the following ~~five~~ ~~seven~~ (57) disciplines: agricultural science and technology; business technology education; computer science technology; engineering; family and consumer sciences; marketing technology education; and technology education. Occupational teacher preparation course work must meet the Idaho Standards for the Initial Certification of Professional School Personnel. The occupational teacher education program must provide appropriate content to constitute a major in the identified field. Student teaching shall be in an approved program and include experiences in the major field. Applicants shall have accumulated one thousand (1,000) clock hours of related work experience or practicum in their respective field of specialization, as approved by the Division of Career Technical Education. The certificate is valid for five (5) years. Six (6) semester credit hours are required every five

(5) years pursuant to Section 060 of these rules. (3-28-18)

b. The Career Technical Education Administrator certificate is required for an individual serving as an administrator, director, or manager of career technical education programs at the state Division of Career Technical Education or in Idaho public schools. Individuals must meet one (1) of the two (2) following prerequisites to qualify for the Career Technical Education Administrator Certificate. The certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years pursuant to Section 060 of these rules to renew. (3-28-18)

(3) Qualify for or hold an Advanced Occupational Specialist certificate or hold an occupational endorsement on a ~~standard instructional~~ degree based career technical certificate; provide evidence of a minimum of four (4) years teaching, three (3) of which must be in a career technical discipline; hold a master's degree; and complete at least fifteen (15) semester credits of administrative course work. (3-28-18)

(1) Applicants must have completed credits in: education finance, administration and supervision of personnel, legal aspects of education; and conducting evaluations using the statewide framework for teacher evaluations. (3-28-18)

(2) Additional course work may be selected from any of the following areas: administration and supervision of occupational programs; instructional supervision; administration internship; curriculum development; curriculum evaluation; research in curriculum; school community relations; communication;

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

ATTACHMENT 1

teaching the adult learner; coordination of work-based learning programs; and/or measurement and evaluation. (3-28-18)

i. Hold a superintendent or principal (Pre-K-12) endorsement on a standard administrator certificate and provide evidence of a minimum of four (4) years teaching, three (3) of which must be in a career technical discipline or successfully complete the Division of Career Technical Education twenty-seven (27) month Idaho career technical education leadership institute. (3-28-18)

~~e. Work Based Learning Coordinator Endorsement. Educators assigned to coordinate approved work-based experiences must hold the Work Based Learning Coordinator endorsement. To be eligible, applicants must hold an occupational endorsement on the Standard Instructional Certificate or qualify for an Occupational Specialist Certificate, plus complete course work in coordination of work-based learning programs. (3-29-17)~~

~~d. Career Counselor Endorsement. The endorsement for a Career Counselor may be issued to applicants who hold a current Pupil Service Staff Certificate with a School Counselor (K-12) endorsement, and who have satisfied the following career technical requirement: Career Pathways and Career Technical Guidance; Principles/Foundations of Career Technical Education; and Theories of Occupational Choice. (3-28-18)~~

06. Industry-Based Occupational Specialist Certificate. The industry-based Occupational Specialist Certificates are industry-based career technical certifications issued in lieu of a degree-based career technical certificate. Certificate holders must meet the following eligibility requirements: (3-28-18)

a. ~~Be at least twenty two (22) years of age; document recent, gainful employment in the area for which certification is requested;~~ Possess either a high school diploma or General Educational Development (GED) certificate; meet provisions of Idaho Code; and, verify technical skills through work experience, industry certification or testing as listed below. When applicable, requirements of occupationally related state agencies must also be met. Since educational levels and work experiences vary, applicants may be determined ~~highly~~ qualified under any one (1) of the following three (3) options: (3-28-18)

i. Have ~~six-three (63)~~ years or ~~twelve-six~~ thousand (~~126,000~~) hours of recent, gainful employment in the occupation for which certification is requested, at least half of which must have been during the immediate previous five (5) years. ~~Up to forty eight (48) months credit or up to eight thousand (8,000) hours can be counted toward the six (6) years or twelve thousand (12,000) hours on a month-to-month basis for journeyman training or completed postsecondary training in a career technical education program;~~ or (3-28-18)

ii. Have a baccalaureate degree in the specific occupation or related area, plus ~~two-one (21)~~ years or ~~four-two~~ thousand (~~42,000~~) hours of recent, gainful employment in the occupation for which certification is ~~required~~ requested, at least half of which must have been during the immediate previous five (5) years; or (3-28-18)

iii. ~~Have completed a formal apprenticeship program in the occupation or related area for which certification is requested plus two (2) years or four thousand (4,000) hours of recent, gainful, related work experience, at least half of which must have been completed in the immediate previous five (5) years~~ Hold or have held an n industry certification in a field closely related to the content area in which the individual seeks to teach as approved by the Division of Career Technical Education. (3-28-18)

b. Limited Occupational Specialist Certificate. This certificate is issued to individuals who are new to teaching in Idaho public schools or new to teaching in career technical education in Idaho public schools. The certificate is an interim certificate and is valid for three (3) years and is non-renewable. Applicants must meet all of the minimum requirements established in Subsection 015.06.a. of these rules. Individuals on a limited occupational specialist certificate must complete one (1) of the two (2) following pathways during the validity period of the certificate: (3-28-18)

i. Pathway I - Coursework: Within the three-year period of the Limited Occupational Specialist Certificate, the instructor must satisfactorily complete the pre-service training prescribed by the

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

ATTACHMENT 1

Division of Career Technical Education and demonstrate competencies in principles/foundations of occupational education and methods of teaching occupational education. Additionally, the instructor must satisfactorily demonstrate competencies in two (2) of the following areas: career pathways and guidance; analysis, integration, and curriculum development; and measurement and evaluation. (3-28-18)

ii. Pathway II – Cohort Training: Within the first twelve (12) months, the holder must enroll in the Division of Career Technical Education sponsored ~~two-year-cohort~~ training and complete ~~the two (2) training~~ within the three-year validity period of the interim certificate. (3-28-18)

c. Standard Occupational Specialist Certificate. (3-28-18)

i. This certificate is issued to individuals who have held a limited occupational specialist certificate and completed one (1) of the pathways for completions. (3-28-18)

ii. The Standard Occupational Specialist Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years pursuant to Section 060 of these rules to renew. Credit equivalency will be based on verification of forty-five (45) hours of participation at approved technical conferences, institutes, or workshops where participation is prorated at the rate of fifteen (15) hours per credit; or one hundred twenty (120) hours of approved related work experience where hours worked may be prorated at the rate of forty (4) hours per credit; or any equivalent combination thereof, and having on file a new professional development plan for the next certification period. (3-28-18)

d. Advanced Occupational Specialist Certificate. This certificate is issued to individuals who: (3-29-17)

i. Are eligible for the Standard Occupational Specialist Certificate; (3-28-18)

ii. Provide evidence of completion of a teacher training degree program or eighteen (18) semester credits of Division of Career Technical Education approved education or content-related course work in addition to the twelve (12) semester credits required for the Standard Occupational Specialist Certificate (a total of thirty (30) semester credits); and (3-28-18)

iii. Have on file a new professional development plan for the next certification period. (3-28-18)

iv. The Advanced Occupational Specialist Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years pursuant to Section 060 of these rules to renew. (3-28-18)

07. Postsecondary Specialist. A Postsecondary Specialist certificate will be granted to a current academic faculty member whose primary employment is with any accredited Idaho postsecondary institution. To be eligible to teach in the public schools under this postsecondary specialist certificate, the candidate must supply a recommendation from the employing institution (faculty's college dean). The primary use of this state-issued certificate is for distance education, virtual classroom programs, and public and postsecondary partnerships. (3-20-20)

a. Renewal. This certificate is good for five (5) years and is renewable. To renew the certificate, the renewal application must be accompanied with a new written recommendation from the postsecondary institution (faculty's college dean level or higher). (3-25-16)

b. Fees. The fee is the same as an initial or renewal certificate as established in Section 066 of these rules. (3-20-20)

c. The candidate must meet the following qualifications: (3-25-16)

i. Hold a master's degree or higher in the content area being taught; (3-25-16)

ii. Be currently employed by the postsecondary institution in the content area to be taught; and (3-25-16)

iii. Complete and pass a criminal history background check as required by Section 33-130, Idaho Code. (3-20-20)

08. American Indian Language. Each Indian tribe shall provide to the State Department of Education the names of those highly and uniquely qualified individuals who have been designated to teach the tribe's native language in accordance with Section 33-1280, Idaho Code. Individuals identified by the tribe(s) may apply for an Idaho American Indian Certificate as American Indian languages

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

ATTACHMENT 1

teachers.

(3-25-16)

a. The Office of Indian Education at the State Department of Education will process an application that has met the requirements of the Tribe(s) for an American Indian languages teacher. (3-25-16)

b. Once an application with Tribal approval has been received, it will be reviewed and, if approved, it will be forwarded to the Office of Certification for a criminal history background check as required in Section 33- 130, Idaho Code. The application must include a ten--finger fingerprint card or scan and a fee for undergoing a background investigation check pursuant to Section 33-130, Idaho Code.(3-28-18)

c. The Office of Certification will review the application and verify the applicant is eligible for an Idaho American Indian Certificate. The State Department of Education shall authorize an eligible applicant as an American Indian languages teacher. An Idaho American Indian Certificate is valid for not more than five (5) years. Individuals may apply for a renewal certificate. (3-25-16)

09. Junior Reserved Officer Training Corps (Junior ROTC) Instructors. (3-25-16)

a. Each local education agency with a Junior ROTC program shall provide the State Department of Education a list of individuals who have completed an official armed forces training program to qualify as Junior ROTC instructors in high schools and a notarized copy of their certificate(s) of completion. (3-20-20)

b. Authorization Letter. Upon receiving the items identified in Subsection 015.09.a., the State Department of Education shall issue a letter authorizing these individuals as Junior ROTC instructors. (3-20-20)

10. Additional Renewal Requirements. In addition to specific certificate or endorsement renewal requirements, applicants must meet the following renewal requirements as applicable: (3-25-16)

c. Administrator certificate renewal. In order to recertify, holders of an administrator certificate must complete a course consisting of a minimum of three (3) semester credits in the Idaho framework for teachers' evaluation pursuant to Section 33-1204, Idaho Code. Credits must be earned through an approved educator preparation program and include a laboratory component. The laboratory component must include in-person or video observation and scoring of teacher performance using the statewide framework for teacher's evaluation. The approved course must include the following competencies: (3-28-18)

i. Understanding professional practice in Idaho evaluation requirements, including gathering accurate evidence and artifacts, understanding and using the state framework for evaluation rubric with fidelity, proof of calibration and interrater reliability, ability to provide effective feedback for teacher growth, and understanding and advising teachers on individualized learning plan and portfolio development. (3-28-18)

ii. Understanding student achievement and growth in the Idaho evaluation framework, including understanding how measurable student achievement and growth measures impact summative evaluation ratings and proficiency in assessment literacy. (3-28-18)

028. PROFESSIONAL ENDORSEMENT.

Eligibility for the professional and advanced professional endorsement pursuant to Section 33-1201A, Idaho Code, may be established by providing additional evidence demonstrating effective teaching for the purpose of determining proficiency and student achievement in the event required standards for the professional endorsement are not met. (4-11-19)

01. Measurable Student Achievement and Student Success Indicators. Evidence of a majority of the applicable staff person's students meeting measurable student achievement targets, or student success indicator targets, may be demonstrated by the certificated staff member providing evidence that students from an accredited private or out-of-state public school have met targets set by the certificated staff member. The measurable student achievement or student success indicators must be comparable to the measurable student achievement or student success indicator targets established by the hiring school for

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

ATTACHMENT 1

certificated staff in similar employment areas and similar grade ranges pursuant to Section 33-1001, Idaho Code. (4-11-19)

02. Performance Criteria. Evidence ~~of an overall rating of proficient, and no components rated as unsatisfactory on the state framework for teaching evaluation~~of meeting the performance criteria as applicable to the professional or advanced professional endorsement pursuant to Section 33-1001, Idaho Code, may be provided through the submittal of annual evaluations showing standards aligned to the Idaho framework for teaching evaluation standards. (4-11-19)

03. Validity of Evidence. Evidence provided must show that the certificated staff member met each of the proficiency and student achievement requirements in each year required, pursuant to section 33-1201A, Idaho Code. (4-11-19)

04. Evaluation of Evidence. The local education agency administrator shall be responsible for evaluating the evidence provided and determining alignment with the school district or charter schools measurable student achievement and student success indicators and alignment with the Idaho framework for teaching evaluation standards. The reviewing administrator shall sign an affidavit stating the evidence meets the district and state standards for measurable student achievement and student success indicators and performance criteria. The local education agency shall report the equivalent performance criteria rating the certificated staff member received and indicate if any equivalent components were rated as unsatisfactory and the measurable student achievement or student success indicator used with verification that the majority of their students have met the measurable student achievement targets or student success indicators. Targets must be comparable to targets set for like groups of students at the hiring school. The state board of education or state department of education may request to review the evidence provided for determining proficiency and student achievement. (4-11-19)

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

SUBJECT

Pending Rule IDAPA 08.05.01, Rules Governing Seed and Plant Certification

REFERENCE

August 11, 2016	Board approved proposed rule changes to IDAPA 08.05.01 incorporating amended seed certification standards (Rapeseed/Canola/Mustard Certification Standards).
November 28, 2016	Board approved pending rule IDAPA 08.05.01, Rules Governing Seed and Plant Certification (Rapeseed/Canola/Mustard Certification Standards)
August 2017	Board approved updated standards and proposed rule changes to the potato seed certification standards regarding corky ring rot.
November 2017	Board approved pending rule changes.
August 2018	Board approved proposed rule, updating the Idaho potato certification standards.
November 8, 2018	Board approved pending rule, updating the Idaho potato certification standards.
June 2019	Board approved a legislative idea amending chapter 15, title 22, Idaho Code and removing the requirement that seed certification standards be promulgated through administrative code.
August 2019	Board approved legislation amending chapter 15, title 22, Idaho Code and removing the requirement that seed certification standards be promulgated through administrative code.
August 2020	Board approved proposed rule repealing IDAPA 08.05.01 in its entirety.

APPLICABLE STATUTE, RULE, OR POLICY

Title 22, Chapter 15, specifically Sections 22-1504 and 22-1505, Idaho Code.
Idaho Administrative Code, IDAPA 08.05.01, Rules Governing Seed and Plant Certification.

BACKGROUND/DISCUSSION

During the 2014 calendar year, the University of Idaho and the Board took action to address compliance within statutory requirements related to certification of seeds, tubers, plants and plant parts in the State of Idaho as required by the Seed and Plant Certification Act of 1959 (Idaho Code, Chapter 15, Title 22). The Board incorporated into Board rules, by reference, the existing published Standards for Certification of the Idaho Crop Improvement Association, Inc. (ICIA). These existing published standards were created through committees consisting of an ICIA board established process of working with various seed crop, seed grower and processors to create and then continuously update the standards. Standards, and any revisions to existing standards, are then presented to the Foundation Seed Stock Committee within the Agriculture Experiment Station at the University of Idaho for approval.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

During the 2020 Legislative Session the Board put forward legislation (SB1248) amending chapter 15, title 22, Idaho code, removing the requirement that seed certification standards be promulgated through administrative code (rule). SB1248 passed the legislature and became effective July 1, 2020. With the authorization for establishing seed certification in Administrative Code removed from statute, the Board must now go through the rulemaking process to repeal IDAPA 08.05.01. repealing the chapter from rule.

IMPACT

Approval of the pending rule will bring it into alignment with the statutory changes and allow it to be published in the Administrative Bulletin as a pending or final rule and then forwarded to the 2021 Legislature for consideration.

ATTACHMENTS

Attachment 1 – Pending Rule – Docket 08-0501-2001

STAFF COMMENTS AND RECOMMENDATIONS

Administrative rules are made up of three types of rules: temporary, proposed and rules. Proposed rules approved by the Board are published in the Idaho Administrative Rules Bulletin. Following publication there is a 21-day comment period. Based on comments received and Board direction, changes may be made to proposed rules prior to entering the pending stage. Pending rules are then brought back to the Board for final consideration. Once approved, pending rules are 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, in whole or in part, by the legislature.

There were no comments received during the public comment period for this docket. No changes have been made to the rule from the proposed to the pending stages. Staff recommends approval.

BOARD ACTION

I move to approve pending rule Docket 08-0501-2001, Rules Governing Seed and Plant Certification, repealing the chapter in its entirety as provided in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

~~08.05.01 — RULES GOVERNING SEED AND PLANT CERTIFICATION~~

~~000. — LEGAL AUTHORITY.~~

~~This chapter is adopted under the authority of Title 22, Chapter 15, Idaho Code. (4-6-15)~~

~~001. — TITLE AND SCOPE.~~

~~01. — Title. The title of this chapter is IDAPA 08.05.01, “Rules Governing Seed and Plant Certification,” by Idaho Crop Improvement Association, Inc. (4-6-15)~~

~~02. — Scope. These rules govern the standards and procedures for the certification of seeds, tubers, plants, or plant parts in the state of Idaho by the Regents of the University of Idaho through the Idaho Agricultural Experiment Station in the College of Agricultural and Life Sciences and its duly authorized agent, Idaho Crop Improvement Association, Inc., as an agent and instrumentality and servant of the State. (4-6-15)~~

~~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 State Board of Education office. (4-6-15)~~

~~003. — ADMINISTRATIVE APPEAL.~~

~~There is no provision for administrative appeals before the Board under this chapter. Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. (4-6-15)~~

~~004. — INCORPORATION BY REFERENCE.~~

~~The following documents are incorporated by reference into this rule. The Idaho Seed and Plant Certification Standards are adopted by the Idaho Crop Improvement Association. Copies of the following documents may be obtained from the Idaho Crop Improvement Association, Inc. website at <http://www.idahocrop.com/index.aspx>, or from the Idaho Crop Improvement Association, Inc. office. (4-6-15)~~

~~01. — Prohibited Noxious Seed in Idaho Certified Seed. The standard Prohibited Noxious Seed in Idaho Certified Seed of the Idaho Crop Improvement Association, Inc., as last modified and approved on March 17, 2015. (3-25-16)~~

~~02. — Seed Certification Fee & Application Schedule. The Seed Certification Fee and Application Schedule of the Idaho Crop Improvement Association, Inc., as last modified and approved on July 11, 2014. (4-6-15)~~

~~03. — Idaho Alfalfa Certification Standards. The Idaho Alfalfa Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as last modified and approved on March 17, 2015. (3-25-16)~~

~~04. — Idaho Bean Certification Standards. The Idaho Bean Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as last modified and approved on March 17, 2015. (3-25-16)~~

~~05. — Idaho Red Clover Certification Standards. The Idaho Red Clover Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on March 17, 2015. (3-25-16)~~

~~06. — Idaho Chickpea Certification Standards. The Idaho Chickpea Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on March 17, 2015. (3-25-16)~~

~~07. — Idaho Grain Certification Standards. The Idaho Grain Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on February 28, 2017. (3-28-18)~~

~~08. — Idaho Grass Certification Standards. The Idaho Grass Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on March 17, 2015. (3-25-16)~~

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

ATTACHMENT 1

~~09. — Idaho Rapeseed/Canola/Mustard Certification Standards. The Idaho Rapeseed/Canola/Mustard Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on April 26, 2016. (3-29-17)~~

~~10. — Idaho Potato Certification Standards. The Idaho Potato Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on January 16, 2018. (4-11-19)~~

~~11. — Pre-Variety Germplasm Certification Regulations in Idaho. The Pre-variety Germplasm Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)~~

~~12. — Idaho Lentil Certification Standards. The Idaho Lentil Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)~~

~~13. — Idaho Blue Flax Certification Standards. The Idaho Blue Flax Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)~~

~~14. — Idaho Milkvetch Certification Standards. The Idaho Milkvetch Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)~~

~~15. — Idaho Pea Certification Standards. The Idaho Pea Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)~~

~~16. — Idaho Sanfoin Certification Standards. The Idaho Sanfoin Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)~~

~~17. — Idaho Birdsfoot Trefoil Certification Standards. The Idaho Birdsfoot Trefoil Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)~~

~~18. — Idaho White Clover Certification Standards. The Idaho White Clover Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)~~

~~19. — Idaho Penstemon Certification Standards. The Idaho Penstemon Certification Standards adopted by the Idaho Crop Improvement Association, Inc., as amended and approved March 17, 2015. (3-25-16)~~

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

~~01. — Physical Addresses. The main office of the Idaho Crop Improvement Association, Inc. is located at 429 SW 5th Avenue, Suite 105, Meridian, ID 83642. The branch offices are located at: 1680 Foote Drive, Idaho Falls, ID 83402; 5920 N Government Way, Suite 10, Dalton Gardens, ID 83815; 2283 Wright Avenue, Suite C, Twin Falls, ID 83303. (4-6-15)~~

~~02. — Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays. These office hours apply to each branch. (4-6-15)~~

~~03. — Mailing Addresses. The mailing address for the Idaho Crop Improvement Association, Inc. main office is 429 SW 5th Avenue, Suite 105, Meridian, ID 83642. The branch offices mailing addresses are: 1680 Foote Drive, Idaho Falls, ID 83402; 5920 N Government Way, Suite 10, Dalton Gardens, ID 83815; 2283 Wright Avenue, Suite C, Twin Falls, ID 83303. (4-6-15)~~

~~04. — Telephone Numbers. The telephone number for the Idaho Crop Improvement Association, Inc. main office is (208) 884 8225. The telephone numbers for the branches are: Idaho Falls (208) 522 9198; Dalton Gardens (208) 762 5300; Twin Falls (208) 733 2468. (4-6-15)~~

~~05. — Fax Numbers. The fax number for the Idaho Crop Improvement Association Inc. main office is (208) 884 4201. The fax numbers for the branches are: Idaho Falls (208) 529 4358; Dalton Gardens (208) 762 5335; Twin Falls (208) 733 4803. (4-6-15)~~

**PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020**

ATTACHMENT 1

~~006.—PUBLIC RECORDS ACT COMPLIANCE.~~

~~These rules are public records available for inspection and copying at the Idaho Crop Improvement Association, Inc., and the State Law Library. (4-6-15)~~

~~007.—009.—(RESERVED)~~

~~010.—DEFINITIONS.~~

~~In addition to the definitions set forth in Title 22, Chapter 15, Idaho Code, the definitions found in the standards of the Idaho Crop Improvement Association, Inc., incorporated by reference in Section 004 of these rules, apply to these rules. (4-6-15)~~

~~011.—(RESERVED)~~

~~012.—APPLICABILITY.~~

~~These rules apply to all seeds, tubers, plants, or plant parts located in, imported into, or exported from the state of Idaho that have an application for certification properly filed with a seed certification agency. (4-6-15)~~

~~013.—OFFICIAL IN CHARGE OF CERTIFIED SEED.~~

~~The Idaho Legislature, at its 35th Session, enacted Senate Bill No. 107, the "Seed and Plant Certification Act of 1959". This Act designated the Regents of the University of Idaho, through the Agricultural Experiment Station of the College of Agriculture, as the seed certifying agency for the State. This Act further gives the Regents of the University of Idaho the authority to designate an agent to administer and conduct the certification program. The Regents of the University of Idaho on April 27, 1959, appointed the Idaho Crop Improvement Association, Inc., as its duly authorized agent to administer and conduct seed certification in Idaho as provided by the Seed and Plant Certification Act of 1959. (4-6-15)~~

~~014.—SEED CERTIFICATION FEE AND APPLICATION SCHEDULE.~~

~~The Idaho Crop Improvement Association may assess a fee to defray the costs of seed testing and administration of the seed certification program. Fees are established through the Idaho Crop Improvement Association, Inc. (4-6-15)~~

~~015.010. —999.—(RESERVED)~~

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

IDAHO DIVISION OF VOCATIONAL REHABILITATION

SUBJECT

Pending Rule Docket 47-0101-2001, Rules Governing Vocational Rehabilitation Services

REFERENCE

November 2019	Board approved temporary rule, IDAPA 47-0101-1901 re-establishing expired provisions for Idaho's Vocational Rehabilitation Program while the Division completed a two year process for rewriting IDAPA 47.01.01.
June 2020	Board approved a temporary and proposed rule IDAPA 47.01.01 establishing provisions for Idaho's Vocational Rehabilitation Program.

APPLICABLE STATUTE, RULE, OR POLICY

Section 33-3717 and 33-2303, Idaho Code

BACKGROUND/DISCUSSION

Idaho Administrative Code, IDAPA 47.01.01, was not extended by the 2019 Legislature and expired June 30, 2019. At the Board's November 26, 2019 Special Board meeting the Board approved a temporary rule reestablishing the rules for vocational rehabilitation services provided by the Idaho Division of Vocational Rehabilitation. These rules were approved as a temporary rule rather than proposed and pending rules to allow the Division time to go through a two year process, with stakeholders, to rewrite the chapter. The services covered by this rule are tied to the federal rehabilitation program and funding, and must meet federal requirements for Idaho to remain eligible for the federal funding that supports these programs. The temporary rule approved by the Board in November 2019 expired at the end of the 2020 Legislative Session.

Following the completion of this work, the Division submitted a new temporary and proposed rule, which was approved by the Board at the June 2020 Regular Board meeting. Negotiated rulemaking meetings were conducted between August 28, 2020 - September 23, 2020 and included two public meetings; September 10, 2020 and September 17, 2020. The pending rule includes changes to Docket 47-0101-2001 that further streamline the rule, specifically in sections 101-103 and modified section 205 for federal compliance. These amendments were posted on the Division's website for public comment. The Division received both verbal and written recommendations during the public comment period. The Division considered the recommendations and incorporated the majority of the recommendations into the pending docket. The Division responded to all comments and posted the responses on the Division's website. Detailed input and responses can be found in Attachment 2.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

IMPACT

This rule will provide general vocational rehabilitation program requirements and service delivery guidance and expectations for individuals with disabilities who apply for and are determined eligible for program services. There is no anticipated fiscal impact above the current program costs.

ATTACHMENTS

Attachment 1 – Pending Rule Docket 47-0101-2001
Attachment 2 – IDAPA 47.01.01 Public Comment Record

STAFF COMMENTS AND RECOMMENDATIONS

The requirements within the temporary and proposed rule align with the requirements of the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act (WIOA), and provide additional clarification. Provisions contained within the rule include: formal and informal review processes, referral and application for services processes, and order of selection criteria.

Administrative rules are made up of three types of rules: temporary, proposed and pending. Proposed rules approved by the Board are published in the Idaho Administrative Rules Bulletin. Following publication there is a 21-day comment period. Based on comments received and Board direction, changes may be made to proposed rules prior to entering the pending stage. Pending rules are then brought back to the Board for final consideration. Once approved, pending rules are 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, in whole or in part, by the legislature.

Attachment 1 incorporates amendments made between the proposed and pending rule stages. Because this rule is a complete rewrite of the section, the language approved by the Board in June shows as the existing language and the changes made between the proposed and pending stages are indicated through the redlining.

Staff recommends approval.

BOARD ACTION

I move to approve pending rule Docket No. 47-0101-2001 as submitted in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

IDAPA 47
TITLE 01
CHAPTER 01
IDAPA 47 - DIVISION OF VOCATIONAL REHABILITATION

47.01.01 – RULES GOVERNING VOCATIONAL REHABILITATION SERVICES

000. LEGAL AUTHORITY.

Article IX, Section 2 of the Idaho Constitution, Section 33-2303, Idaho Code and the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act (WIOA).

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 47.01.01, “Rules Governing Vocational Rehabilitation Services.”

02. Scope. The provision of these rules is to establish the program requirements and to implement program changes necessitated by the Rehabilitation Act of 1973, as amended by WIOA.

002. WRITTEN INTERPRETATIONS.

Written interpretations to these rules may be available from the Idaho Division of Vocational Rehabilitation. Other agency guidance documents, as well as agency policy statements of interpretations not rising to legal effect of a rule, if any, are available for inspection at the agency during regular business hours.

003. ADMINISTRATIVE APPEALS.

Administrative appeals are governed by Section 100-103 of these rules in accordance with 34 CFR 361.57.

004. INCORPORATION BY REFERENCE.

01. Documents Incorporated by Reference. No documents are incorporated by reference.

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

The principal place of business of the Idaho Division of Vocational Rehabilitation is in Boise, Idaho. The office is located at 650 W. State Street, Room 150, Boise, Idaho 83720. The hours of operation are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. The telephone number is (208) 334-3390, the facsimile number is (208) 334-5305 and the internet website address is <http://www.vr.idaho.gov>.

006. PUBLIC RECORDS ACT COMPLIANCE AND CONFIDENTIALITY OF RECORDS.

This rule is subject to and in compliance with the Public Records Act, Title 74, Chapter 1, Idaho Code.

01. Confidential Records. All personal information concerning the Divisions customers is confidential. The information is used only for purposes directly connected to the administration of Vocational Rehabilitation services, and may not be released without the informed, written consent of the customer, except as otherwise provided by law.

007. – 009. (RESERVED)

010. DEFINITIONS.

01. Authorization for Purchase. A purchase order issued on behalf of the Division.

02. Customer. Any individual who has applied for or is eligible for vocational rehabilitation services.

03. Designee. A person selected or designated to carry out a duty or role.

04. Division. The Idaho Division of Vocational Rehabilitation.

05. Informed choice. To make an informed choice, customers need accurate, clear, and useful information to make decisions regarding their vocational goal, necessary services and options for selecting approved service providers to reach their goal.

06. Information and referral. Information and possible referral to other appropriate federal, state, and local programs and service providers best suited to address the rehabilitation and employment needs of an individual with a disability.

07. State Administrator. The Chief Executive Officer of the Idaho Division of Vocational Rehabilitation.

02-08. Vocational Rehabilitation Counselor. A professional staff member of the Division who determines customer eligibility and the provision of vocational rehabilitation services.

011. ABBREVIATIONS.

01. AFP. Authorization for Purchase.

02. CAP. Client Assistance Program.

03. CFR. Code of Federal Regulations.

04. IPE. Individualized Plan for Employment.

05. VRC. Vocational Rehabilitation Counselor.

06. WIOA. Workforce Innovation and Opportunity Act.

012. – 099. (RESERVED)

100. CUSTOMER APPEALS.

In accordance with 34 CFR 361.57, the customer appeals process is governed by Section 101-103 of these rules.

101. INFORMAL REVIEW PROCESS.

An informal review process is an optional informal process available to the customer as a method to resolve disagreements or dissatisfaction with the provision of services. An individual may request an informal review within twenty-one (21) calendar days of the agency's notice regarding the provision or denial of services. The request must be in writing to the regional manager and describe the complaint, and be made

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

ATTACHMENT 1

~~within twenty one (21) calendar days of the agency notice regarding the provision or denial of services that are in question.~~ The regional manager will function as the administrative review officer in this ~~informal review~~ process. At the customer's written request another regional manager may be substituted. The reviewer will be responsible for:

01. Advising the Customer. Advising the customer of his right to ~~have a representative present and encouraging the customer to use~~ representation and the services available through of the Client Assistance Program (CAP).

02. Conducting the Review. ~~Conducting~~ The review will be conducted within twenty-one (21) calendar days following receipt of a written request, ~~for such a review,~~ unless both parties agree ~~to upon~~ an extension.

03. Documented Effort. ~~The Division may e~~ Extending the informal review period ~~time allowed for conducting an information review accordingly,~~ when the customer makes a documented effort to utilize CAP or another advocate to resolve the dissatisfaction.

04. Review Location. ~~Holding~~ The review will be held at a time and location ~~place~~ convenient to the customer, generally at ~~the local~~ Division branch office.

05. Communication Method. Provide the communication in the most ~~using~~ appropriate methods ~~for the~~ customer ~~s who have a sensory impairment. Providing an interpreter for those customers who cannot communicate in English.~~

06. Transportation. Provide transportation to and from the review site, if needed.

07. Informal Review Decision. The regional manager or designee will provide a written decision after conducting the informal review. The customer may request mediation or fair hearing within twenty-one (21) calendar days of the informal review written decision.

102. MEDIATION.

Mediation is an alternate dispute resolution method available to applicants and eligible customers who have initiated ~~the~~ formal appeals process or when the informal review did not resolve the customer's concern.

01. Timeline. A customer may request mediation as long as the request is made. ~~The request must be made~~ within twenty-one (21) calendar days of the original decision or twenty-one (21) calendar days following the written decision from the informal review. Mediation is available to a customer when an informal review has not resolved the dispute to the satisfaction of the customer.

02. Written Request. Requests for mediation must be made in writing to the field services chief and clearly state the reason for dissatisfaction with the decision or results of the informal review. The field services chief will represent the Division or assign a management level staff ~~member of the administrative or supervisory staff~~ who has not participated in the agency action that created the customer's dissatisfaction.

03. Participation. Participation in the mediation process is voluntary ~~on the part of~~ for the customer and ~~for~~ the ~~part of the~~ Division. Either party may reject mediation as an alternate dispute resolution method. Once mediation has been accepted as an alternate dispute resolution method, either party may terminate the mediation process.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

ATTACHMENT 1

04. Right to Fair Hearing. Mediation may not be used to deny or delay the customer's right to pursue a fair hearing. Should the customer and/or designated representative select mediation in lieu of a fair hearing the option for a fair hearing will be extended to allow the results of the mediation to be established. Once the final results of the mediation are determined, the customer retains the right to request a fair hearing.

05. Mediator. All mediation is conducted by a qualified and impartial mediator who is selected randomly from a list ~~of mediators~~ maintained by the Division.

06. Confidentiality. Mediation discussions are confidential and may not be used as evidence in a fair hearing. Both parties ~~at the beginning of the mediation process~~ will sign a confidentiality agreement.

07. Mediation Agreement. The mediator will develop a written mediation agreement if an agreement between the parties is reached. The agreement must be signed by all parties involved in the mediation, the customer, the mediator, and the Division designated representative.

08. Cost. Cost of mediation is paid by the Division, except for customer representation. ~~The Division does not pay for any cost related to the representation of a customer.~~

103. FAIR HEARING PROCESS.

~~The fair hearing process is~~ is an option available to any customer who is dissatisfied with any determination made by Division personnel ~~of the Division~~ that affects the provision of vocational rehabilitation services. A customer may request a fair hearing immediately without ~~having to go~~ ing through any other appeal steps. A customer ~~may request,~~ or if appropriate ~~their may request through the customer's~~ representative, may request a timely review of the determination. Such requests s must be made within twenty-one (21) calendar days of the Division's decision resulting in the initial disagreement or within twenty-one (21) calendar days of the conclusion of the informal review or mediation process, whichever is later. The fair hearing ~~process~~ will be conducted by a fair hearing officer.

01. Procedure. A fair hearing is a procedure whereby a customer who is dissatisfied with any determination concerning the provision or denial of Division services or the findings of the informal review or mediation may seek a determination of agency action before a fair hearing officer.

02. Written Request. Requests for a fair hearing must be sent in writing to the field services chief and clearly state the customer's dissatisfaction with the agency's decision.

03. Timeline. The hearing will be conducted within sixty (60) calendar days of receipt of the individual's request for review, unless informal resolution is achieved prior to the 60th day, or both parties agree to a specific extension of time.

04. Fair Hearing Officers. The Division Administrator, or designee, ~~of the Division~~ and the State Rehabilitation Council will jointly identify a list of fair hearing officers jointly. The Administrator and the customer will select the fair hearing officer from the list.

05. Written Report. The fair hearing officer will issue a written report of the findings and decision of the hearing within thirty (30) calendar days of the completion of the hearing.

06. **Decision.** The decision of the fair hearing officer will be considered final by the Division.

07. **Dispute.** Any party who disagrees with the findings and decisions of a fair hearing officer will have the right to bring a civil action with respect to the matter in dispute. The action may be brought in any state court of competent jurisdiction or in a district court of the United States of competent jurisdiction without regard to the amount in controversy.

104. -- 199. (RESERVED)

200. PROVISION OF SERVICES ON A STATEWIDE BASIS.

Vocational Rehabilitation services are offered on a statewide basis to individuals with disabilities, subject to eligibility determination.

201. REFERRAL AND APPLICATION FOR SERVICES.

01. **Referral.** An agency, organization, individual (including self) or programs of the American Job Center Network may refer an individual for services. The Division will make a minimum of three (3) attempts to respond to the individual before closing the referral.

02. **Application for Services.** The application process includes the following; an individual must sign and date an application, or make a request for alternate application, provide necessary information to begin an assessment of eligibility, information gathered in the intake interview meets this criterion, and the customer is available and free of restrictions to complete the assessment process for determining eligibility for Division services.

i. **Residency Requirement.** There is no duration of residency to apply for Division services. Individuals must be living in the state of Idaho and legally able to work in the United States (i.e., non-U.S. citizens must show they are legally able to work within the United States).

ii. **Other Requirements.** Customers must be available to participate in the eligibility determination process and will be informed of their rights and responsibilities as a customer of the program.

202. ELIGIBILITY REQUIREMENTS. Eligibility for vocational rehabilitation services provided by the Division is based upon the following criteria:

01. The customer has a physical or mental impairment documented by a qualified professional;

02. The customer's physical or mental impairment constitutes a substantial impediment to employment as determined by a qualified Vocational Rehabilitation Counselor (VRC);

03. A determination by a qualified VRC employed by the Division, who meets the Division's Comprehensive System of Personnel Development policy, that the customer requires vocational rehabilitation services to prepare for, secure, retain, advance in, or regain employment consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. ~~A qualified VRC is an individual who meets the Division's Comprehensive System of Personnel Development policy.~~

03.04. The Division presumes that an applicant who meets the eligibility requirements in sections 202.01 and 202.02 can benefit in terms of an employment outcome, unless the severity of disability places

this presumption of benefit in question.

203. PRESUMPTIVE ELIGIBILITY.

Individuals eligible for Social Security benefits under Title II or Title XVI of the Social Security Act, based upon their disability, are presumed to meet the eligibility requirements for vocational rehabilitation services, unless the VRC questions the individual's ability to benefit from vocational rehabilitation services because of the severity of the individual's disability.

204. TRIAL WORK EXPERIENCE.

In cases where a VRC questions a customer's ability to benefit from vocational rehabilitation services, due to the severity of their disability, the VRC must obtain clear and convincing evidence that the individual cannot benefit from services, prior to closing the individual's case. A trial work plan should ~~only~~ include only those services which will assess an individual's ability to work in competitive integrated employment through an exploration of the individual's abilities, capabilities, and capacity to perform in realistic work situations. Trial work experiences include supported employment, on-the-job training, and other experiences using realistic integrated work settings. The Division must provide appropriate support services to accommodate the rehabilitation needs of the individual during the trial work experience. Trial work experiences must be of sufficient variety and over a sufficient period of time.

205. SEVERITY OF DISABILITY.

At the time a customer is determined eligible for vocational rehabilitation services, a determination of the significance of disability, as it relates to employment, will also be determined. A priority category assignment will be determined for all eligible individuals, in one of the following categories:

01. Priority Category 1 - Eligible Individuals with the Most Significant Disabilities (MSD).

- a. Meets criteria established for a customer with a significant disability; and
- b. Experiences a severe physical and/or mental impairment that seriously limits three or more functional categories (such as mobility, work skills, self-care, interpersonal skills, communication, self-direction or work tolerance) in terms of an employment outcome; and
- c. Requires multiple primary Individualized Plan for Employment (IPE) services over an extended period of time ~~for six (6) months or longer.~~

02. Priority Category 2 - Eligible Individuals with Significant Disabilities (SD).

- a. Meets the criteria for a customer with no significant disability; and
- b. Experiences a severe physical and/or mental impairment that seriously limits one or more ~~two~~ functional categories (such as mobility, work skills, self-care, interpersonal skills, communication, self-direction or work tolerance) in terms of an employment outcome; and
- c. Requires multiple primary IPE services over an extended period of time ~~for six (6) months or longer.~~

03. Priority Category 3 - All other Eligible Individuals with Disabilities (D).

- a. Has a physical or mental impairment; and

**PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020**

ATTACHMENT 1

b. Impairment constitutes or results in a substantial impediment to employment; and

c. Who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.~~Requires vocational rehabilitation services to prepare for, secure, retain, regain or advance in employment consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.~~

206. COMPREHENSIVE ASSESSMENT OF REHABILITATION NEEDS.

A comprehensive assessment of rehabilitation needs is a process utilized to identify the customer's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice as it relates to identifying and selecting a vocational goal. The assessment will be conducted in the most integrated setting possible, consistent with the informed choice of the customer.

207. INDIVIDUALIZED PLAN FOR EMPLOYMENT (IPE).

01. IPE Requirements. An eligible customer, or their representative, may develop all or part of their IPE, with or without assistance from the Division, however the IPE must be agreed to by a qualified rehabilitation professional.~~qualified Division staff member.~~ The Division will not pay for IPE development services from other providers. The customer is given a copy of the signed IPE and any subsequent IPEs. There will be only one active IPE at any given time. The Division supports vocational goals in competitive integrated employment, including supported employment and self-employment.

02. IPE Content. The IPE will contain the following elements, per 34 CFR 361.46~~federal requirements~~, including;

- a. Identification of a specific employment outcome;
- b. Necessary rehabilitation services to achieve the employment outcome;
- c. Timelines for achieving the employment outcome and for the initiation of services;
- d. Identification of service providers;
- e. Criteria used to evaluate progress;
- f. Terms and conditions including customer rights and responsibilities;
- g. Customer's financial participation, if appropriate;
- h. Identification of comparable benefits as appropriate; and
- i. The expected need for post-employment services.

03. Annual IPE Review. IPEs will be reviewed at least on an annual basis.

208. CASE CLOSURE.

The Division may close a customer's case at any time in the vocational rehabilitation process for various reasons, in compliance with federal regulations as stated in 34 CFR 361.43, 44, and 56 and federal reporting guidelines. General reasons for case closure may occur when the VRC determines that a customer is either

not eligible or no longer eligible for vocational rehabilitation services; is unavailable to participate in the VR program; declines to participate in the VR program; or the customer achieves an employment outcome. Regardless of when in the process the record of service is closed, the VRC must make reasonable attempts to contact the individual, or as appropriate their representative, prior to case closure to discuss the pending case closure. A closure letter or appropriate form of communication ~~will~~^{is also} ~~be~~ sent to all individuals whose case is being closed.

209. ORDER OF SELECTION.

01. Order of Selection. When the Division cannot provide the full range of vocational rehabilitation services to all eligible customers because of fiscal or personnel capacity constraints, the agency will enter an order of selection. The order of selection will be based on the following requirements:

a. Students with disabilities, as defined by 34 CFR 361.5(c)(51), who received pre-employment transition services prior to eligibility determination and assignment to a disability priority category will continue to receive such services.

b. All customers who have an Individualized Plan for Employment will continue to be served.

02. Priority Status. Priority will be given to eligible individuals with the most significant disabilities, followed by those eligible individuals with significant disabilities, and finally those eligible individuals with disabilities. All eligible customers will be assigned to one (1) of the priority categories as outlined in Section 205 above.

03. When Unable to Serve Eligible Individuals. If ~~the Idaho~~^{the} Division of ~~Vocational Rehabilitation (IDVR)~~ cannot serve all eligible individuals within a given priority category, individuals will be released from the statewide waitlist based on disability priority category and date of application.

210. -- 299. (RESERVED)

300. FINANCIAL PARTICIPATION REQUIREMENTS.

The ~~Idaho~~ Division of ~~Vocational Rehabilitation~~ will consider the financial need of an eligible customer for the purposes of determining the extent of their participation in the costs of vocational rehabilitation services. Financial participation will not be a consideration in the determination of eligibility for vocational rehabilitation services but will be a consideration in allocating the cost of vocational rehabilitation services, with some exceptions.

01. Financial Participation Assessment. Financial participation will be assessed after eligibility, during plan development, while exploring comparable benefits, prior to a plan amendment, and on an annual basis or if a customer's financial circumstances change significantly, whichever occurs sooner.

02. Services Exempt from Financial Participation. Services exempt from financial participation include:

a. Assessment for determining eligibility and vocational rehabilitation needs.

b. Vocational rehabilitation counseling and guidance and referral services.

c. Auxiliary aid or services (e.g., interpreter services or reader services) that an individual with a disability requires in order to participate in the vocational rehabilitation program.

- d. Personal assistance services.
- e. Job related services, including; job readiness training, job search assistance and placement assistance, SE job coaching, job supports – short term, and youth extended services.
- f. Pre-employment Transition Services.

03. Financial Participation Criteria. Several factors are considered in determining a customer's level of financial participation, including the household income, family size, estimated annual plan costs, exclusions such as disability impairment related work expenses, and available financial resources which exceed the Department of Health and Human Services (HHS) Federal Poverty Guidelines. Individuals who receive Social Security benefits, because of their disability, are exempt for contributing towards plan costs, except for those costs exceeding Division limits. The Division has limits for services and uses a low bid, when possible. Exceptions to financial participation may be granted with appropriate approval when adherence to financial participation could seriously jeopardize the customer's opportunity to achieve the IPE objectives and employment outcome.

301. COMPARABLE BENEFITS.

Eligible customers will identify and use all comparable benefits that may be available during the development of the IPE, including, but not limited to, accommodations and auxiliary aids and services, which may meet, in whole or in part, the cost of vocational rehabilitation services. Comparable benefits and services must be utilized before agency funds are used.

01. Exempt Services. Services exempt from the requirement to utilize comparable services and benefits include; medical, psychological or other examinations to determine eligibility, vocational counseling and guidance, information and referral, job related services to include job search, job supports, job placement and retention services, evaluation of vocational rehabilitation potential, and rehabilitation technology (not including personally prescribed devices).

02. Availability of Comparable Benefits. If comparable services or benefits are not available at the time needed to ensure progress toward achieving the employment outcome, the Division may provide such services until comparable services and benefits become available.

302. -- 399. (RESERVED)

400. PURCHASING REQUIREMENTS.

All services and purchases will follow federal, state, and Idaho Division of P-purchasing guidelines. Purchases require written authorization prior to the initiation of the purchased service. Authorizations are issued on or before the beginning date of service. If services are provided without an n-Division approved authorization, the Division reserves the right to deny the vendor's invoice. The method of procurement is determined in partnership with the customer; however the Division prefers that an authorization for purchase be used over other methods, with an invoice from the vendor documenting the service provision. The Division will pay for pre-employment transition services and other services that contribute to the determination of eligibility or that are necessary to achieve an employment outcome.

401. PURCHASING STANDARDS.

The Division pays usual, customary, and reasonable charges for services. The Division has established hierarchical levels of purchasing authority to balance process efficiency with the Division's internal controls. The majority of service negotiation is at the counselor level. When necessary, varying levels of exceptions to

**PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020**

ATTACHMENT 1

purchasing authority are available by appropriate management staff. Decisions on case expenditures are determined on an individualized basis. The customer may choose their preferred vendor, however, if the cost of a service exceeds a control threshold, the customer will be responsible for the excess amount, absent an exception. Services that will meet the customer's need at the least cost to the Division will be the service cost considered for planning purposes. Services available in the State of Idaho are preferred over more costly out-of-state options, where applicable.

402. PROVISION OF COMMUNITY REHABILITATION PROGRAM (CRP) SERVICES.

~~The Idaho~~ Division ~~of Vocational Rehabilitation~~ will purchase vocational services from CRPs that are accredited by either the Commission on Accreditation of Rehabilitation Facilities (CARF) or the Rehabilitation Services Accreditation System (RSAS). In ~~collaboration~~~~conjunction~~ with the customer, the qualified professional Vocational Rehabilitation Counselor, will determine which CRP services, if any, are required for the customer to achieve an employment outcome. The Division will determine the method for establishing CRP service rates.

403. -- 999.

(RESERVED)

IDAPA 47.01.01 Public Input with Idaho Division of Vocational

Rehabilitation (IDVR) Responses September 25, 2020

1. Meeting held September 10, 2020 from 4:00 p.m. to 5:30 p.m. Mountain Daylight Time (MDT).

No public input provided during this session; however, one call was received. The caller had no comment they were appreciative of the opportunity to provide input. Information regarding the second public comment session was shared as well as procedures and deadlines for written comment.

2. Meeting held September 17, 2020 from 9:30 a.m. to 11:00 a.m. MDT. IDVR received several email inquiries regarding the public comment session. The individuals did not have comment or stated they would provide written comment by close of business on September 18, 2020.
3. Verbal Public Input Received Separate from Meetings: One commenter suggested adding a definition of 'designee' to the rule.
 - IDVR Response: IDVR believes that the term 'Designee' is a common term and does not need to be defined in the rule, however, agrees to this suggestion and will add 'Designee' to the definitions Section of the rule. The State Board of Education Rules Coordinator or Division of Financial Management may override this suggestion.
 - IDVR received a call on September 18, 2020, inquiring about the period for Public Comment. IDVR will extend Public Comment through September 23, 2020, to be consistent with the date published in the Administrative Bulletin, Volume 20-9, September 2, 2020.

4. Written Public Input.

Written public input was received from two entities on September 18, 2020. Below are the recommendations provided by specific IDAPA Section.

- Public Input: 010 Definitions. It is recommended that defining other Division positions would be beneficial. For example, Field Services Vocational Rehabilitation Assistants (VRA), etc. Is there a difference between Vocational Rehabilitation Counselors (VRC) and VRAs as far as level of authority or responsibility? It is also recommended that Post Employment Services be added and defined.
 - IDVR Response: IDVR appreciates the comment. Not all positions in the agency are addressed in rule. VRAs are support staff and do not have authority to make

decisions related to program eligibility, identification of Individualized Plan for Employment (IPE) services, or case closure. IDVR does not believe there is value in providing a definition of VRAs in rule but does believe that including a definition of VRC is relevant and will add this definition.

- IDVR Response: IDVR does not believe it is necessary to add the definition of Post Employment services to rule as it is defined in federal law, 34 CFR 361.5(41).
- Public Input: 101 Informal Review Process. It is recommended that the word ‘written’ be inserted before ‘notice’, in the second sentence of this paragraph. It is recommended the rule be expanded to note the way a customer can request another regional manager, under what circumstances.
 - IDVR Response: The informal review is as it states, informal. Leaving the word “written” out of this Section provides customers latitude to discuss their service delivery dissatisfaction without it having to rise to a written decision by IDVR. IDVR believes this provides greater opportunity for problem solving.
 - IDVR Response: It is not practicable to describe the circumstances a customer would make such a request, however IDVR affords customers this opportunity, if needed.
- Public Input: 101.01 Advising the Customer. It is recommended that a sentence be added “Advising the customer of his or her right to representation and services administered by the Client Assistance Program.”
 - IDVR Response: IDVR believes the existing sentence communicates the intent of the suggested comment and does not need to add an additional sentence. Current sentence reads “Advising the customer of his right to representation and services available through the Client Assistance Program (CAP).”
- Public Input: 101.3 Documented Effort. Commenter suggests using consistent language between the title of the rule Section and the body of the rule. Commenter suggests use of another word in lieu of ‘concerted.’ For example, “reasonable effort’ or ‘meaningful effort’ could be appropriate alternatives.
 - IDVR Response: IDVR agrees with the commenter and will change the language back to ‘documented effort’ to eliminate confusion.
- Public Input: 101.05 Communication Method. It is recommended that the sentence read “Provide the communication in the most appropriate method for the customer.”
 - IDVR Response: IDVR agrees with this suggestion and will change the sentence.

- Public Input: 101.06 Transportation. It is recommended that the Division define the process by which the customer can obtain transportation to and from the site.
 - IDVR Response: IDVR believes the current language is descriptive and allows for flexibility and therefore will leave the language as stated. The IDVR will assist with proving transportation, however it is the customer's responsibility to indicate if they require transportation.
- Public Input: 202.03 Eligibility Requirements. What criteria is used to determine this for individuals with the most significant disabilities if she/he does not have any work experience or other information on which to base this decision? Will the VRC need to authorize for a Community Based Work Evaluation to obtain information? Or add a sentence indicating if this information is not adequate trial work experience will be implemented.
 - IDVR Response: IDVR appreciates the comment. VRCs use professional judgment based upon their knowledge, skills, and abilities and information gathered and presented by the customer to determine if the customer requires vocational rehabilitation services. VRCs will consider an individual's lack of work experience when evaluating if an individual requires vocational rehabilitation services. IDVR explains the purpose of trial work experience in Section 204 of the rule. Trial work experience is only used when a VRC questions a customer's ability to benefit from services due to the severity of their disability not due to lack of work experience. IDVR will leave this Section as is currently in rule.
- Public Input: 204 Trial Work Experience. It is recommended that VRC's consider allowing access to other IDVR services during the trial work plan that could resolve barriers to employment and enhance the customer's opportunity for success.
 - IDVR Response: IDVR appreciates this comment and agrees to expand this Section of rule to include the services and supports IDVR must provide as required by law.
- Public Input: 205.01c, 02c, and 03c. Severity of Disability. It is recommended that IDVR define extended period of time in 01c and 02c and include 'Who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services to all categories.
- Public Input: 205.03c. Another commenter suggests retaining the prior rule language so that remains clear what constitutes a benefit and what metrics are used to assess whether there is a benefit.
 - IDVR Response: IDVR must adhere to the severity of disability definitions as defined in federal law and in 34 CFR 361.5(27), (29), and (30), therefore will not modify the Sections as suggested in the comments above. Furthermore, additional eligibility requirements, not currently stated in rule, include the

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 23, 2020

ATTACHMENT 2

requirement that IDVR must presume that an applicant who meets the eligibility requirements can benefit in terms of an employment outcome, unless the VRC questions the customer's ability to benefit based upon their severity of their disability. IDVR will add this statement in Section 202.04.

- Public Input: 206 Comprehensive Assessment of Rehabilitation Needs. It is recommended that informed choice be defined. Customers should be allowed to choose providers if there are multiple providers available.
 - IDVR Response: IDVR agrees with the recommendation and will include a definition of informed choice in Section 010. The definition will include the types of decision points customers will exercise their informed choice, including necessary services and options for selecting approved service providers.
- Public Input: 207.01 IPE Requirements. It is recommended qualified Division staff person be defined based on IDVR job titles. Is this decision being made by a VRC, a VRA or who?
 - IDVR Response: IDVR agrees to clarify that a qualified rehabilitation professional must agree to the IPE content. On occasion a regional manager, assistant regional manager, or the Chief of Field Services must approve an IPE or IPE service.
- Public Input: 207.02 IPE Content. It is recommended these regulations and guidelines be identified by reference.
 - IDVR Response: IDVR added the Federal Regulations citation, 34 CFR 361.46, to this Section.
- Public Input: 207.03 Annual IPE Review. It is recommended that "at a minimum" be added.
 - IDVR Response: IDVR agrees and will add "at least" to this section.
- Public Input: 208 Case Closure. It is recommended these regulations and guidelines be identified by reference. It is recommended to change "is also" to "will be" in the last sentence of this Section. It is recommended that a sentence be added that "All providers who are authorized services to work with the customer be notified prior to case closure. (This is in keeping with reasonable attempt to contact the customer as the provider may know how to contact the customer)."
 - IDVR Response: IDVR will add the federal citations to this Section but will not reference all RSA federal reporting guidelines. All of RSA's sub-regulatory guidance documentation can be found on RSA's website and the Division has a link to these guidance documents on our website, under Governing Laws and Policies. IDVR will change "is also" to "will be" in the last sentence of this Section. Regarding the last recommendation to this Section, IDVR may only contact the

customer, and their guardian or representative regarding case closure. IDVR may notify vendors when services discontinue.

- Public Input: 209. It is recommended that IDVR add a statement on what indicators are used to determine the Division's ability to provide the full range of vocational rehabilitation services.
 - IDVR Response: IDVR uses fiscal forecasting models and service delivery and case volume projections to assist with order of selection prediction. IDVR does not believe that this information should be included in rule as it is a procedure the Division uses to determine the need for entering an Order of Selection. Furthermore, federal regulation requires the Division to forecast estimates of the number of individuals in the state who are eligible for services and report the cost of services for the number of individuals estimated to be eligible for services in the VR Services Portion of the State Plan.
- Public Input: 301.01 Exempt Services. It is recommended the Division define information and referral.
 - IDVR Response: IDVR will add the definition of information and referral in Section 010.
- Public Input: 402 Provision of Community Rehabilitation Program Services. It is recommended that the word 'conjunction' which is defined as whether:
 - A word used to connect clauses or sentences or to coordinate words in the same clause, or the action or instance of two or more events or things occurring at the same point in time or space.
 - Is not appropriate to use here. Perhaps the sentence can be changed to read, together with the customer. Does the customer have any say? Choice?
 - IDVR Response: IDVR will change the phrase 'in conjunction with' to 'in collaboration with.'