

**PLANNING, POLICY AND GOVERNMENTAL AFFAIRS**  
**AUGUST 23, 2023**

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**SUBJECT**

Proposed Rule – Docket No. 08-0401-2301 Rules of the Idaho Digital Learning Academy

**REFERENCE**

November 1, 2006	Board approved Pending Rule – Docket No. 08-0401- 0601, Idaho Digital Learning Academy
April 20-12, 2006	Board approved proposed rule amendment to IDAPA 08.04.01. Rules of the Idaho Digital Learning Academy
August 10, 2017	Board approved amendments including physical address technical corrections and updating provisions related to student work and ethical conduct.

**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho Code § 33-5501 *et seq.*  
Idaho Administrative Code, IDAPA 08.04.01 Rules of the Idaho Digital Learning Academy  
Idaho Code Title 67, Chapter 52, Idaho Administrative Procedures Act

**BACKGROUND/DISCUSSION**

Administrative rules are made up of three types of rules: temporary rules, proposed rules and pending rules. Temporary and proposed rules may be promulgated jointly with a single docket number or temporary rules may be promulgated as a standalone rule. Guidance for the rulemaking process is provided by the Office of Administrative Rules Coordinator, Division of Financial Management through the Idaho Rule Writer’s Manual.

Executive Order 2020-01, Zero Based Regulations, created an ongoing review process for all existing rules as of June 30, 2020. Each rule chapter is required to be reviewed by the agency that promulgated the rule according to a schedule established by the Division of Financial Management (DFM) no later than legislative adjournment *sine die* in 2026. The agency review schedule is required to be staggered across agencies and within agencies with five or more rule chapters. Administrative rules promulgated under the Board’s authority include IDAPA 08, IDAPA 55, and IDAPA 47. The Board’s administrative rules review schedule may be found at [www.dfm.idaho.gov](http://www.dfm.idaho.gov)

Notice of Intent to Promulgate Rules was published in the June 7, 2023 (Vol 23-6) Idaho Administrative Rules Bulletin for the following Rule Docket Numbers:

- Docket No. 08-0102-2301 – IDAPA 08.01.02 Rules Governing the Postsecondary Credit Scholarship Program – Rule Repeal
- Docket No. 08-0201-2301 – IDAPA 08.02.01 Rules Governing Administration – Temporary Rule to expire 6/30/23

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- Docket No. 08-0203-2301-IDAPA 08.02.03 Rules Governing Thoroughness – Negotiated Rulemaking
- Docket No. 08-0401.2301 – IDAPA 08.04.01 Rules of the Idaho Digital Learning Academy – Zero-Based Regulation Chapter Rewrite
- Docket No. 55-0103-2301 – IDAPA 55.01.03 – Rules of Career Technical Schools – Zero-Based Regulation Chapter Rewrite
- Docket No. 55-0104-2301 - IDAPA 55.01.04 – Rules Governing Idaho Quality Program Standards Incentive Grants and Agricultural Education Program Start-up Grants

Notice of Intent to Promulgate Rules was published in the July 7, 2023 (Vol 23-7) Idaho Administrative Rules Bulletin for the Following Rule Docket Numbers:

- Docket No. 08.0113.2301 – IDAPA 08.01.13 Rules Governing the Opportunity Scholarship – Temporary Rule effective 7/1/23
- Docket No. 08.0113.2302 – IDAPA 08.01.13 Rules Governing the Opportunity Scholarship – Negotiated Rulemaking

Two meetings for the purpose of gathering initial public feedback were held on June 22, 2023 and June 23, 2023.

After feedback was gathered, the proposed revisions were drafted and are submitted as Attachment 2.

**IMPACT**

If the State Board of Education approves the proposed rule, it will be submitted to the Division of Financial Management Office of the Administrative Rules Coordinator and will be published as a proposed rule.

A 21-day public feedback period follows the publication of proposed rules. During this time stakeholders and members of the public may provide additional feedback on the drafted text. Based on comments received during the feedback window 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 for final publication 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.

If the State Board of Education does not approve the proposed rule, the existing rule will remain in effect.

**ATTACHMENTS**

Attachment 1 – Notice of Intent to Promulgate Rules

Attachment 2 – Proposed Rule Docket No. 08-0401-2301- Rules of the Idaho Digital Learning Academy

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**BOARD STAFF COMMENTS AND RECOMMENDATIONS**

IDAPA 08.04.01. Rules of the Idaho Digital Learning Academy are due for review under the Zero-Based Regulation initiative. These rules have been thoroughly reviewed for simplification and streamlining. Recommended additions are indicated in red text and serve to clarify the language that is proposed to remain. Recommended deletions are indicated in blue text.

Recommended deletions from IDAPA rules such as consequences for plagiarism (Subsection 102.02.b) and teacher interaction with students (Subsection 102.02.d) continue to exist in policy established by the IDLA governing board. Removing these provisions from IDAPA serves to place their governance at the local level, but does not require any change to current practices.

In reviewing this section of rule with the impacted stakeholders, the IDLA Superintendent requested a change to Subsection 102.01, regarding the requirement of proctored exams. The current text requires a proctored exam for all courses. The proposed language is broader and would allow for proctored exams as well as comprehensive final projects as determined by the Local Education Agency. This would allow for final assessments to include portfolios, projects, or other demonstrations of mastery in cases where a formal exam may not be the most appropriate assessment method, such as in a physical education course.

Staff recommends approval.

**BOARD ACTION**

I move to approve proposed rule – Docket Number 08-0401-2301, as submitted in Attachment 2.

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

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**ATTACHMENT 1**

**IDAPA 08 – STATE BOARD OF EDUCATION**

**08.04.01 – RULES OF THE IDAHO DIGITAL LEARNING ACADEMY**

**DOCKET NO. 08-0401-2301**

**NOTICE OF INTENT TO PROMULGATE RULES –  
ZERO-BASED REGULATION (ZBR) NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 33-5504, 33-5505, 33-5507, and Chapter 55, Title 33, Idaho Code.

**MEETING SCHEDULE:** A public meeting(s) on the negotiated rulemaking will be held no later than June 23, 2023.

Specific meeting dates, times, and locations of scheduled meetings, details are forthcoming and will be provided on the agency website and on <https://townhall.idaho.gov/>.

The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made at least one (1) day prior to the meeting to the agency address below.

**METHOD OF PARTICIPATION:** Persons wishing to participate in the negotiated rulemaking must do the following:

Interested persons wishing to participate in the negotiated rulemaking may do so by contacting the undersigned either in writing, by email, or by calling the phone number listed below. Responses must be received by June 23, 2023.

Should a sufficient number of persons respond to this notice, negotiated meetings will be scheduled. All scheduled meetings shall be posted and made accessible on the agency website at the address listed below and via <https://townhall.idaho.gov/> at least 48 hours before the meeting.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event, the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

In accordance with [Executive Order 2020-01](#), this rulemaking will be a review of the chapter for evaluation on how it can be improved, simplified, and streamlined.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text contact Nicholas Wagner at [rules@osbe.idaho.gov](mailto:rules@osbe.idaho.gov) or (208)-488-7586. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho State Board of Education website at the following web address: <https://boardofed.idaho.gov/board-policies-rules/board-rules/education-rules/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 23, 2023.

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**ATTACHMENT 1**

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**STATE BOARD OF EDUCATION  
Rules of the Idaho Digital Learning Academy**

**Docket No. 08-0401-2301  
ZBR Negotiated Rulemaking**

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DATED this 5th day of May 2023.

Nicholas Wagner  
Administrative Rules Coordinator  
Idaho State Board of Education  
650 W State St.  
PO Box 83720  
Boise, Idaho 83720-0037  
Phone: (208)488-7586, fax: (208)334-2632

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**ATTACHMENT 2**

**08.04.01 – RULES OF THE IDAHO DIGITAL LEARNING ACADEMY**

**000. LEGAL AUTHORITY.**

~~In accordance with Sections 33-5504, 33-5505, and 33-5507, Idaho Code, the Board is authorized to promulgate rules implementing the provisions of Title 33, Chapter 55, Idaho Code.~~ (3-15-22)( )

**001. SCOPE.**

These rules provide the requirements for the governance and administration of the Idaho Digital Learning Academy's Board of Directors. (3-15-22)

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Acceptable Use Policy (AUP).** An Acceptable Use Policy ~~is a policy that~~ governs behavior in a ~~computer or online~~ Virtual environment. ~~An Acceptable Use Policy by outlines establishing guidelines for appropriate and inappropriate behavior, including specific examples of inappropriate behavior as well as the and consequences of policy violating on the policy. Acceptable use gGuidelines include, but are not limited to, guidelines those~~ pertaining to the use of profanity or threatening language, copyright violations, revealing personal information (~~either their one's~~ own or someone else's), disrupting the ~~use of a~~ school network, or importation of sexually explicit, drug-related, ~~and/or~~ other offensive materials into the virtual ~~course~~ environment. (3-15-22)( )

**011. -- 100. (RESERVED)**

**101. ACCREDITATION.**

IDLA must maintain accreditation by an organization recognized by the State Board of Education. (3-15-22)

**102. ACCOUNTABILITY.**

**01. Exams.** Each IDLA course will require the student to ~~take complete, at the discretion of the LEA, either~~ a comprehensive final exam at an approved site under proctored conditions ~~or a comprehensive final project.~~ (3-15-22)( )

**02. Student Work and Ethical Conduct.** (3-15-22)

**a. IDLAs board of directors will adopt an acceptable use policy.** ( )

~~**ab.** IDLA will inform provide students and parents a copy of the IDLA AUP in writing of the consequences of plagiarism prior to beginning each class. The consequences for plagiarism are set out in the IDLA student handbook which is made available online at all times and is communicated to each student and parent prior to the beginning of each class.~~ IDLA will investigate suspected ~~cases of plagiarism~~ policy violations and inform parents, students, and the local school district when a suspected case arises. (3-15-22)( )

~~**bc.** Acceptable use and behavior in a distance learning virtual environment is determined by local school district's policies and supplemented by the IDLA AUP. IDLA students and parents will be informed by the IDLA AUP specifically governing behavior in an online school.~~ IDLA will provide a copy of the IDLA AUP to the Idaho State Board of Education in the IDLA Annual Report. (3-15-22)( )

~~**ed.** In a case of violation of the acceptable use policy AUP or other disciplinary issues, IDLA will notify the local school district. The local school district is responsible for the appropriate disciplinary action. IDLA should be notified by the local school district of any disciplinary action resulting from a student's participation in an~~

IDLA course.

(3-15-22)( )

~~d. — The IDLA Director or designee reserves the right to deny disruptive students access to IDLA courses in the future or remove them from participating in an existing course. Appeals to the denial or removal from a course may be made in writing to the IDLA Board of Directors discussing the circumstances for removal or denial. The IDLA Board of Directors will review the appeal and hold a special board meeting to allow the student an opportunity to speak to the issue. The IDLA Board of Directors will issue a final decision within ten (10) days of the board meeting. (3-15-22)~~

**03. Academic ReportingTeacher Interaction.** ~~IDLA faculty are required to contact students within the first twenty-four (24) hours of class. Contact includes phone, e-mail, web conferencing, or other technological means. IDLA is required to submit periodic progress reports and final course percentages for individual students' grades for each student which are then reported to the local school district for transcription to the student's academic record. (3-15-22)( )~~

**103. FEES.**

The IDLA fee schedule will be provided to the Idaho State Board of Education in the IDLA Annual Report to the State Board of Education. (3-15-22)

**104. -- 999. (RESERVED)**