

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
AUGUST 23, 2023

SUBJECT

Proposed Rule – Docket No. 08.0113.2302 Rules Governing the Opportunity Scholarship

REFERENCE

August 31, 2017	Board approved proposed rule Docket 08-0113-1701, Rules Governing the Opportunity Scholarship, making technical corrections and clarifying that GPAs of more than one decimal place will be rounded up.
November 2017	Board approved pending rule Docket 08-0113-1701. April 2018 Board approved temporary rule Docket 08-0113-1801, establishing provision for the Opportunity Scholarship to be used for “Adult Learners.”
August 2018	Board approved proposed rule Docket 08-0113-1802 establishing provision for the Opportunity Scholarship for Adult Learners.
November 2018	Board vacated proposed rule Docket 08-0113-1802 and directed staff to bring back a version allowing certificates to be stackable during the 2019-2020 rulemaking cycle.
August 2019	Board approved proposed rule lower the minimum GPA requirement and adding provisions for adult learners, Docket 08-0113-1901.
November 2019	Board approved omnibus pending rule, Docket 08-0000-1900 reauthorizing all non-fee administrative rules in IDAPA 08 incorporating in the proposed amendments from Docket 08-0113-1901.
June 2021	Board approved omnibus temporary rule, Docket 08-0000-2100 reauthorizing all non-fee administrative rules in IDAPA 08.
October 2021	Board approved proposed Omnibus rule, Docket 08-0000-2100, incorporating proposed rules approved in August 2021.
November 2021	Board approved pending Omnibus rule, Docket 08-0000-2100.

APPLICABLE STATUTE, RULE, OR POLICY

Idaho Code § 33-4303

Idaho Administrative Code, IDAPA 08.01.13, Rules Governing the Opportunity Scholarship

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

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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

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
- 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.

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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. 08.0113.2302 Rules Governing the Opportunity Scholarship

BOARD STAFF COMMENTS AND RECOMMENDATIONS

Proposed revisions address various edits to aid in the streamlined implementation of the statewide scholarship, to accommodate for the impact of recent legislation, and to account for any future delays in the FAFSA application.

Revisions include adjusting terminology in Subsection 101.02 to align with federal revisions; adjusting the deadline for the announcement of initial awards to align with other statewide scholarships (Subsection 202.02); providing flexibility to the administration team to adjust award amounts if necessary after verification of need status through FAFSA reporting (Subsection 300.02.c); and clarifying that students who were initially awarded the scholarship prior to July 1, 2023 and who intend to attend a community college are still eligible to receive the scholarship (Subsection 301.04).

Staff recommends approval.

BOARD ACTION

I move to approve proposed rule – Docket Number 08.0113.2302, as submitted in Attachment 2.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

IDAPA 08 – STATE BOARD OF EDUCATION

08.01.13 – RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM

DOCKET NO. 08-0113-2302

NOTICE OF INTENT TO PROMULGATE RULES – 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 Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-4303, and 33-4304, Idaho Code.

MEETING SCHEDULE: A public meeting(s) on the negotiated rulemaking will be held no later than August 4, 2023.

Specific meeting dates, times, and locations of scheduled meetings, details are forthcoming and will be provided on the agency website and on 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 August 4, 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 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:

Amendments would move the deadline for initial awards from July 1 to December 31 each year. This will ensure that applicants will be informed of the Opportunity Scholarship and Launch Grant Program at the same time. The proposed rule would also allow the Board to make awards pending financial need verification should student access to the Free Application for Federal Student aid (FAFSA) be delayed in a future year.

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 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/>.

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ATTACHMENT 1

**STATE BOARD OF EDUCATION
Rules Governing the Opportunity Scholarship Program**

**Docket No. 08-0113-2302
Negotiated Rulemaking**

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 August 4, 2023.

DATED this 6th day of June, 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

08.01.13

– RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM

(BREAK IN CONTINUITY OF SECTIONS)

101. ELIGIBILITY.

Applicants must meet all of the eligibility requirements to be considered for the scholarship award. (4-6-23)

01. Academic Eligibility. To be eligible for an opportunity scholarship, an applicant must meet minimum academic eligibility criteria, as follows: (4-6-23)

a. A student who has not yet graduated from an eligible secondary school or its equivalent in the state of Idaho must have an un-weighted minimum cumulative grade point of average of two point seven (2.7) or better on a scale of four point zero (4.0) to be eligible to apply for an opportunity scholarship. Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) place. Home schooled students must provide a transcript of subjects taught and grades received signed by the parent or guardian of the student; or (4-6-23)

b. A student who has obtained a general equivalency diploma must have taken the ACT assessment and received a minimum composite score of twenty (20) or better, or the equivalent SAT assessment and received a one thousand ten (1,010) or better, to be academically eligible to apply for an opportunity scholarship; or (4-6-23)

c. A student currently enrolled in an eligible Idaho postsecondary educational institution must have a minimum cumulative grade point average of two point seven (2.7) or better on a scale of four point zero (4.0) at such institution in order to be academically eligible to apply for an opportunity scholarship. Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) place. (4-6-23)

d. An Adult Learner must have a minimum cumulative grade point average of two point five (2.5) or higher on a scale of four point zero (4.0). Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) decimal place. (4-6-23)

02. Financial Eligibility. The financial need of an applicant for an opportunity scholarship will be based upon ~~the verified expected family contribution~~ Student Aid Index, as identified by the free application for federal student aid (FAFSA) Student Aid report Submission Summary. ~~The Student Aid report used to calculate financial need will be the report generated on the scholarship application deadline.~~ (4-6-23) ()

03. Additional Eligibility Requirements. (4-6-23)

a. A student must not be in default on a student educational loan, or owe a repayment on a federal grant, and must be in good financial standing with the opportunity scholarship program. (4-6-23)

b. If a student has attempted or completed more than one hundred and twenty (120) postsecondary credits, then such student must identify a major, the required number of credits necessary for graduation in such major, and shall submit an academic transcript that contains all courses taken and all postsecondary credit received to the Board office. A student shall not be eligible for an opportunity scholarship if: (4-6-23)

i. The student has completed more than one hundred fifty percent (150%) of the courses and academic credit necessary to graduate in such major; or (4-6-23)

ii. Upon review of the student's academic transcript(s), the student cannot complete a degree/certificate in the major identified within two (2) semesters based on normal academic course load unless a

determination by the executive director or designee has been made that there are extenuating circumstances and the student has a plan approved by the executive director or designee outlining the courses that will be taken and the completion date of the degree or certificate. (4-6-23)

102. -- 201. (RESERVED)

202. APPLICATION PROCESS.

01. Applications. An eligible student must complete and submit the opportunity scholarship program application to the Board electronically on or before the ~~date specified in the application, but not later than the~~ deadline set by the executive director each year. Adult Learner applications will be processed and awarded on a monthly basis up to the application deadline. An applicant without electronic capabilities may request a waiver of this requirement and, if granted, submit an application on the form established by the Board through the United States Postal Service that must be postmarked not later than the applicable application deadline. The FAFSA must be completed on or prior to the application deadline unless federal delays prohibit an applicant from completing the FAFSA prior to the deadline. (4-6-23)()

02. Announcement of Award. Announcement of the award of initial scholarships will be made no later than ~~June 1~~December 31 of each year, with awards to be effective at the beginning of the first full term ~~following July 1 of that year~~of the next fiscal year. Announcements must clearly state the award is part of the state's scholarship program and is funded through state appropriated funds. Additional award announcements may be made after this date based on the availability of funds ~~and the acceptance rate of the initial awards.~~ (4-6-23)()

03. Communication with State Officials. Applicants must respond by the date specified to any communication from officials of the opportunity scholarship program. Failure to respond within the time period specified will result in cancellation of the scholarship unless extenuating circumstances are involved and approved by the executive director or designee. (4-6-23)

203. -- 299. (RESERVED)

300. SELECTION OF SCHOLARSHIP RECIPIENTS.

01. Selection Process. Scholarship awards will be based on the availability of scholarship program funds. Opportunity scholarships will be awarded to applicants, based on ranking and priority, in accordance with the following criteria: (4-6-23)

a. Eligible students shall be selected based on ranking criteria that assigns seventy percent (70%) to financial eligibility, and thirty percent (30%) to academic eligibility. In the event that this weighted score results in a tie, an eligible student who submitted an application to the Board earlier in time will be assigned a higher rank. (4-6-23)

b. Notwithstanding Subsection 300.01.a. of these rules, the priority for the selection of recipients of opportunity scholarship awards shall be to scholarship recipients who received an opportunity scholarship award during the previous fiscal year, and have met all of the continuing eligibility requirements provided in these rules. (4-6-23)

02. Monetary Value of the Opportunity Scholarship. (4-6-23)

a. The monetary value of the opportunity scholarship award to a student shall be based on the educational costs for attending an eligible Idaho postsecondary educational institution, less the following: (4-6-23)

i. The amount of the assigned student responsibility, established by the Board annually; (4-6-23)

ii. The amount of federal grant aid, as identified by the FAFSA Submission Summary Student Aid Report (SAR) that is known at the time of award determination; (4-6-23)()

iii. The amount of other financial aid awarded the student, from private or other sources that is known at the time of award determination. (4-6-23)

iv. The eligible maximum award amount for Adult Learners enrolled in less than twenty-four (24) credit hours ~~or its equivalent in an academic year attending an eligible four-year postsecondary institution, or less than eighteen (18) credit hours or its equivalent in an academic year attending an eligible two-year institution,~~ will be prorated as follows: (4-6-23)()

(1) Enrolled in six (6) to eight (8) credits or its equivalent per term - fifty percent (50%) of the maximum; (4-6-23)

(2) Enrolled in nine (9) to eleven (11) credits or its equivalent per term - seventy-five percent (75%) of the maximum; and (4-6-23)

(3) Enrolled in twelve (12) or more credits or its equivalent per term - one hundred percent (100%) of the maximum. (4-6-23)

b. The amount of an opportunity scholarship award to an individual student shall not exceed the actual cost of tuition and fees at the institution the student attends or will attend, or if the student attends or will attend an Idaho private postsecondary educational institution, the average tuition at Idaho's public four (4) year postsecondary educational institutions. (4-6-23)

c. The Board may determine monetary value without the FAFSA Submission Summary if the delay is due only to federal delay and may modify any final award or payment upon receipt of the FAFSA Submission Summary. ()

301. OPPORTUNITY SCHOLARSHIP AWARD.

01. Payment. Payment of opportunity scholarship awards will be made in the name of the recipient and will be sent to a designated official at the eligible Idaho postsecondary educational institution in which the recipient is enrolled. The official must transmit the payment to the recipient within a reasonable time following receipt of the payment. (4-6-23)

02. Duration. Scholarships will be awarded on an annual basis and payments will correspond to academic terms, semesters, quarters, or equivalent units. In no instance will the entire amount of a scholarship be paid in advance to, or on behalf of, a scholarship recipient. The scholarship may cover up to four (4) educational years, or eight (8) semesters or equivalent for attendance at an eligible Idaho postsecondary educational institution. Awards are contingent on annual appropriations by the legislature and continued eligibility of the student. (4-6-23)

03. Eligibility. If a student receives an opportunity scholarship payment and it is later determined that the student did not meet all of the Opportunity Scholarship Program eligibility requirements, then the student is considered in overpayment status, and must return program funds in accordance with the eligible Idaho postsecondary educational institution's refund policy. (4-6-23)

04. New Scholarships for Community College. The Board may not award any new scholarship, excluding renewals, to any student attending community college on or after July 1, 2023. ()

302. CONTINUING ELIGIBILITY.

To remain eligible for renewal of an opportunity scholarship, the recipient must comply with all of the provisions of the Opportunity Scholarship Program. (4-6-23)

01. Credit Hours. To remain eligible for renewal of an opportunity scholarship, the scholarship recipient attending a four (4) year eligible postsecondary institution must have completed a minimum of twenty-four (24) credit hours or its equivalent each academic year that the student received an opportunity scholarship award. ~~A scholarship recipient attending a two (2) year eligible postsecondary institution must have completed a minimum of eighteen (18) credit hours or its equivalent each academic year that the student received an opportunity scholarship~~

~~award.~~ Notwithstanding these provisions, a scholarship recipient who has received the Opportunity Scholarship as an Adult Learner may retain eligibility by completing twelve (12) or more credit hours or its equivalent each academic year the student received the Opportunity Scholarship award. All students may use the summer term to meet the annual credit accumulation requirements. (4-6-23)()

02. Academic Progress. To remain eligible for renewal of an opportunity scholarship, the scholarship recipient must have maintained a minimum cumulative grade point average of two point seven (2.7) on a scale of four point zero (4.0), and must be maintaining satisfactory academic progress toward their identified postsecondary credential as determined by the institution they are enrolled in. Students receiving an Opportunity Scholarship award as an Adult Learner must make satisfactory progress on their graduation plan established with the eligible institution at the time of admission. (4-6-23)

03. Eligibility Following Interruption of Continuous Enrollment. A scholarship recipient whose continuous enrollment is interrupted for more than four (4) months but less than two (2) years for any reason but who intends to re-enroll in an eligible Idaho postsecondary educational institution must file a letter of intent to withdraw no later than thirty (30) days prior to the first day of the academic term of the discontinued attendance to the Office of the State Board of Education. Failure to do so may result in forfeiture of the scholarship. The Board's Executive Director or designee will review each request for interruption and notify the individual of approval or denial of the request. In addition, the individual must file a statement with the Board declaring intent to re-enroll as a full-time undergraduate student in an academic or career technical program in an eligible Idaho postsecondary educational institution for the succeeding academic year no later than thirty (30) days prior to the first day of the academic term in which the individual intends to re-enroll within two (2) years of the approval of the request to withdraw. Failure to do so will result in forfeiture of the scholarship unless an extension has been granted. An extension of interruption of continuous enrollment period may be granted for eligible students due to military service in the United States armed forces, medical circumstances, or other circumstances approved by the executive director. All requests for extension must be made thirty (30) days prior to the start of the succeeding academic year. (4-6-23)

(BREAK IN CONTINUITY OF SECTIONS)