



**Special Board Meeting
November 20, 2025
Idaho State Board of Education
OSBE Conference Room
650 West State Street,
Suite 307
Boise, ID 83720**

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

November 20, 2025 – 2:00 p.m. (Mountain Time)

CONSENT

PPGA

1. Pending Rule – Docket No. 08-0205-2501, Rules Governing Pay for Success Contracting – Action item
2. Pending Rule – Docket No. 55-0103-2501, Rules of Career Technical Centers – Action item

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS

1. Pending Rule – Docket No. 08-0202-2501, Rules Governing Uniformity – Action item
2. Pending Rule – Docket No. 08-0203-2501, Rules Governing Thoroughness – Action item
3. Pending Rule – Docket No. 08-0203-2502, Rules Governing Thoroughness – Action item

BUSINESS AFFAIRS AND HUMAN RESOURCES

1. Board Policy V.E. Gifts and Affiliated Foundations – First Reading – Action Item
2. Board Policy V.K. Construction Projects – First Reading – Action Item
3. Idaho Public Television – Update to Operating Agreement Between Idaho Public Television and Friends of Idaho Public Television, Inc. Audit Procedure – Action Item

If auxiliary aids or services are needed for individuals with disabilities, please contact the Board office at 208-332-1571.

**CONSENT
NOVEMBER 20, 2025**

TAB	DESCRIPTION	ACTION
1	PENDING RULE – DOCKET NO. 08-0205-2501, RULES GOVERNING PAY FOR SUCCESS CONTRACTING	Action Item
2	PENDING RULE – DOCKET NO. 55-0103-2501, RULES OF CAREER TECHNICAL CENTERS	Action Item

**CONSENT
NOVEMBER 20, 2025**

SUBJECT

Pending Rule – Docket No. 08-0205-2501, Rules Governing Pay for Success Contracting

REFERENCE

August 2016	Board Approved Proposed rule, Docket 08-0205-1601, outlining the newly established Idaho code 33-125B in rule.
November 2016	Board Approved Pending rule, Docket 08-0205-1601, outlining the newly established Idaho code 33-125B in rule.
August 2025	Board Approved Proposed rule, Docket 08-0205-2501, regarding the sunseting of the rule.

APPLICABLE STATUTE, RULE, OR POLICY

Idaho Code § 33-125B
Idaho Administrative Code, IDAPA 08.02.05, Rules Governing Pay for Success Contracting
Idaho Code Title 67, Chapter 52, Idaho Administrative Procedures Act

BACKGROUND/DISCUSSION

Administrative rules promulgated under the Board's authority include IDAPA 08, IDAPA 55, and IDAPA 47.

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). In 2024, HB563 amended Section 67-5292, Idaho Code, to establish an ongoing five-year cycle for review of all administrative rules.

The Board approved the proposed rule in August 2025. Subsequently, the rule was published in the October 1, 2025, Administrative Bulletin of Negotiated Rulemaking, Vol. 25-10. This publication marks the opening of a formal 21-day public comment period. The public comment period closed on October 22, 2025.

The rule was promulgated and structured around statute 33-125B, Idaho Code. 33-125B and the rule have not been utilized by the State Department of Education in recent years or possibly ever. Additionally, IDAPA 08.02.05 is scheduled for review in reference to the Zero-based Regulation review process brought forth by Executive Order 2020-21. The process requires full chapter evaluation of how it can be improved, simplified, and streamlined. Any provisions duplicative of statutory language will also be removed. For this reason, the action of this rule is to repeal the rule in its entirety.

The final version of the rule is presented to the Board for approval with no changes from the proposed rule. If approved, the rule will be submitted to DFM as pending.

CONSENT
NOVEMBER 20, 2025

The final proposed rule language is presented as Attachment 2 – Pending Rule.

IMPACT

If the Board approves the pending rule, it will move forward for review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code.

All approved pending rules become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

ATTACHMENTS

Attachment 1 – Notice of Pending Rule Docket No. 08-0205-2501

Attachment 2 – Pending Rule Docket No. 08-0205-2501

BOARD STAFF COMMENTS AND RECOMMENDATIONS

No comments were received regarding the proposed rule. There were no changes to the proposed rule, and it is presented in Attachment 2 as it was approved by the Board on October 1. Staff recommends approval.

BOARD ACTION

I move to approve pending rule – Docket 08-0205-2501, as submitted in Attachment 2.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.05 - RULES GOVERNING PAY FOR SUCCESS CONTRACTING

DOCKET NO. 08-0205-2501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with [Section 67-5224\(2\)\(c\)](#), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with [Section 67-5224](#), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to [Section 33-125B](#), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The rule was promulgated and structured around statute 33-125B, Idaho Code. 33-125B and the rule have not been utilized by the State Department of Education in recent years or possibly ever. Additionally, IDAPA 08.02.05 is scheduled for review in reference to the Zero-based Regulation review process brought forth by Executive Order 2020-21. The process requires full chapter evaluation of how it can be improved, simplified, and streamlined. Any provisions duplicative of statutory language will also be removed. For this reason, the action of this rule is to repeal the rule in its entirety.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 1, 2025, Idaho Administrative Bulletin, [Volume 25-10, pages 176](#).

FEE SUMMARY: Pursuant to [Section 67-5224\(2\)\(d\)](#), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: **NA**

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year: **NA**

ASSISTANCE WITH TECHNICAL QUESTIONS: For assistance with technical questions concerning this pending rule, contact Nicholas Wagner at rules@edu.idaho.gov or (208)-488-7586).

DATED this 21st day of November, 2025.

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

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.05 - RULES GOVERNING PAY FOR SUCCESS CONTRACTING

DOCKET NO. 08-0205-2501

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to section 33-125b, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2025.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The rule was promulgated and structured around statute 33-125B, Idaho code. 33-125B and the rule has not been utilized by the State Department of Education in recent years or possibly ever. Additionally, IDAPA 08.02.05 is scheduled for review in reference to the Zero Based Regulation review process brought forth by Executive Order 2020-21. The process requires full chapter evaluation of how it can be improved, simplified, and streamlined. Any provisions duplicative of statutory language will also be removed. For this reason, the action of this rule is to repeal the rule in its entirety.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 4, 2025 Idaho Administrative Bulletin, Volume 25-6

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nicholas Wagner at rules@edu.idaho.gov or (208)-488-7586.

DATED this 21st day of August

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

~~08.02.05 — RULES GOVERNING PAY FOR SUCCESS CONTRACTING~~

~~000. — LEGAL AUTHORITY.~~

~~In accordance with Sections 33-125B(8), Idaho Code, the State Board of Education may promulgate rules implementing the provisions of Section 33-125B, Idaho Code. (3-15-22)~~

~~001. — SCOPE.~~

~~These rules constitute the requirements for Pay for Success Contracting. (3-15-22)~~

~~002. — 009. — (RESERVED)~~

~~010. — DEFINITIONS.~~

~~01. — Board. The State Board of Education. (3-15-22)~~

~~02. — Department. The State Department of Education. (3-15-22)~~

~~03. — Oversight Committee. Committee formed pursuant to Section 33-125B(6), Idaho Code, to evaluate pay for success contracting proposals. (3-15-22)~~

~~04. — Pay for Success Contracting. Contracting for services with private entities whereby services are reimbursed based on the achievement of outcomes pursuant to Section 33-125B, Idaho Code. (3-15-22)~~

~~011. — 100. — (RESERVED)~~

~~101. — INITIATING CONTRACTING.~~

~~01. — Two Routes for Initiating Contracting. Contracting may be initiated through two (2) separate routes. (3-15-22)~~

~~a. — Initiated by Department. The Department may issues a request for information upon identification of a need for a service; or (3-15-22)~~

~~b. — Initiated by interested party. An interested party or service provider may identify a need for service and submit a proposal to the State Department of Education. Proposals must include a letter of intent to participate in a pay for success contract and must include the following information: (3-15-22)~~

~~i. — Special service(s) that the service provider will provide; (3-15-22)~~

~~ii. — How the services will enhance student academic achievement; (3-15-22)~~

~~iii. — Source of education funding from which savings will be realized; (3-15-22)~~

~~iv. — Identity of one (1) or more qualified external evaluators; (3-15-22)~~

~~v. — Provide external evaluator's qualifications and expertise as required pursuant to Section 33-125B, Idaho Code; and (3-15-22)~~

~~vi. — Identify local education agencies (LEA) that have expressed interest in participating in the service and documentation that LEA meets the requirements pursuant to Section 33-125B, Idaho Code. (3-15-22)~~

~~02. — Additional Information. As part of the review process, the oversight committee may request additional information. (3-15-22)~~

~~03. — Format. Proposals may be submitted in electronic or hard copy format. (3-15-22)~~

~~102. PROPOSAL EVALUATION.~~

~~01. Timeline. (3-15-22)~~

~~a. Within five (5) business days of receipt of the complete proposal, the proposal will be forwarded electronically to the oversight committee. (3-15-22)~~

~~b. After receiving the proposal, the oversight committee will determine if additional information is needed to evaluate the proposal. The oversight committee will request additional information from the interested party within thirty (30) days of receiving the initial proposal. (3-15-22)~~

~~c. The interested party shall respond to a request for additional information within fifteen (15) days of receiving the request. (3-15-22)~~

~~i. Requests for additional response time may be granted at the discretion of the oversight committee. (3-15-22)~~

~~ii. If the interested party fails to respond or additional information is not received within the specified time, the oversight committee may reject the proposal without further consideration. (3-15-22)~~

~~d. The oversight committee shall hold an initial meeting either in person, telephonically, or by other means, to consider the merits of the proposal within forty five (45) days of receipt of the proposal. (3-15-22)~~

~~e. The oversight committee chair shall inform the Department designated staff person, and the interested party, of its decision on a proposal within ninety (90) days of receipt of the complete proposal. (3-15-22)~~

~~02. Oversight Committee Action. Following consideration of a proposal, the oversight committee shall take one (1) of the following actions: (3-15-22)~~

~~a. Require the Department to start negotiations with the interested party; (3-15-22)~~

~~b. Require the Department to start negotiations with the interested party, subject to conditions imposed by the oversight committee; (3-15-22)~~

~~c. Reject the proposal with suggestions for improving the proposal prior to considering resubmittal, or; (3-15-22)~~

~~d. Reject the proposal. (3-15-22)~~

~~03. Proposal Resubmittal. Proposals that have been rejected may be resubmitted for consideration if amendments have been made to the proposal or additional information has been added for the oversight committee's consideration. (3-15-22)~~

~~103. CONTRACT NEGOTIATIONS.~~

~~01. Negotiation Teams. Contract negotiations for accepted proposals shall involve the following individuals: (3-15-22)~~

~~a. The Department chief budget officer or designee; (3-15-22)~~

~~b. One (1) or more individuals with a background in complex financial instruments; (3-15-22)~~

~~c. One (1) or more individuals with a background in complex financial instruments, at least one (1) of which will be from the state treasurer's office or the state endowment fund board; (3-15-22)~~

~~_____d._____ One (1) or more financial officers from a local education agency. In the event a local education agency has already been identified to participate in the proposal, the chief financial officer for the local education agency shall participate. (3-15-22)~~

~~_____e._____ One (1) or more individuals representing the interested party. (3-15-22)~~

~~_____02._____ **Negotiation Timeline.** Negotiations shall be completed within ninety (90) days unless extended by the oversight committee. To be extended by the oversight committee, the committee must determine that all parties have made a best effort to negotiate the contract. (3-15-22)~~

~~_____03._____ **Negotiation Updates.** The Department shall provide regular contract negotiation updates to the oversight committee, not less than every thirty (30) days during contract negotiations. Failure to negotiate mutually agreeable terms within ninety (90) days shall be reported to the oversight committee. The committee may extend the timeline for negotiations, appoint a new negotiations team or terminate the negotiations. (3-15-22)~~

~~_____04._____ **Time Tracking.** State employees' time spent on the evaluation or negotiation shall be tracked and recorded on a per proposal basis and be provided to the oversight committee, or to other interested parties upon request. (3-15-22)~~

104._____ CONTRACT MONITORING.

Contract monitoring reports will be submitted to the oversight committee by the Department in a timeline and format established by the oversight committee. (3-15-22)

105._____ 999._____ (RESERVED)

CONSENT
NOVEMBER 20, 2025

SUBJECT

Pending Rule – Docket No. 55-0103-2501 Rules of Career Technical Schools

REFERENCE

August 2023	Board approved proposed rule, Docket 55-0103-2301. Zero-Based Regulations review
November 2023	Board approved proposed rule, Docket 55-0103-2301. Zero-Based Regulations review
August 2025	Board Approved Proposed rule, Docket 55-0103-2501, regarding the updates to rule definitions.

APPLICABLE STATUTE, RULE, OR POLICY

Idaho Administrative Code, IDAPA 55.01.03, Rules of Career Technical Schools
Idaho Code Title 67, Chapter 52, Idaho Administrative Procedures Act
Section 33-1002G, Idaho Code and Sections 33-2202 through 33-2205, Idaho Code

BACKGROUND/DISCUSSION

Administrative rules promulgated under the Board's authority include IDAPA 08, IDAPA 55, and IDAPA 47.

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). In 2024, HB563 amended Section 67-5292, Idaho Code, to establish an ongoing five-year cycle for review of all administrative rules.

The Board approved the proposed rule in August 2025. Subsequently, the rule was published in the October 1, 2025, Administrative Bulletin of Negotiated Rulemaking, Vol. 25-10. This publication marks the opening of a formal 21-day public comment period. The public comment period closed on October 22, 2025.

This amendment would remove an unnecessary term that is federally defined as part of the Perkins V program to align with federal changes. The proposed amendment removes the definition of the term concentrator and the reference to the term concentrator from the definition of participation. The current methodology references enrolled concentrator students in a capstone course because the students in a capstone course already meet the definition of a concentrator.

The final version of the rule is presented to the Board for approval with no changes from the proposed rule. If approved, the rule will be submitted to DFM as pending.

The final proposed rule language is presented as Attachment 2 – Pending Rule.

IMPACT

CONSENT
NOVEMBER 20, 2025

If the Board approves the pending rule, it will move forward for review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code.

All approved pending rules become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

ATTACHMENTS

Attachment 1 – Notice of Pending Rule Docket No. 55-0103-2501

Attachment 2 – Pending Rule Docket No. 55-0103-2501

BOARD STAFF COMMENTS AND RECOMMENDATIONS

No comments were received regarding the proposed rule. There were no changes to the proposed rule, and it is presented in Attachment 2 as it was approved by the Board on October 1. Staff recommends approval.

BOARD ACTION

I move to approve pending rule – Docket 55-0103-2501, as submitted in Attachment 2.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

IDAPA 55 – DIVISION OF CAREER TECHNICAL EDUCATION

55.01.03 – RULES OF CAREER TECHNICAL CENTERS

DOCKET NO. 55-0103-2501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with [Section 67-5224\(2\)\(c\)](#), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with [Section 67-5224](#), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to [Sections 33-101](#), [33-105](#), [33-107](#), [33-1002G](#), [33-1629](#), [33-2202](#), [33-2207](#), and [33-2211](#) in Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This amendment would remove an unnecessary term that is federally defined as part of the [Perkins V](#) program to align with federal changes. The proposed amendment removes the definition of the term concentrator and the reference to the term concentrator from the definition of participation. The current methodology references enrolled concentrator students in a capstone course because the students in a capstone course already meet the definition of a concentrator.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 1, 2025, Idaho Administrative Bulletin, [Volume 25-10, pages 452-453](#).

FEE SUMMARY: Pursuant to [Section 67-5224\(2\)\(d\)](#), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: **NA**

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year: **NA**

ASSISTANCE WITH TECHNICAL QUESTIONS: For assistance with technical questions concerning this pending rule, contact Nicholas Wagner at rules@edu.idaho.gov or (208)-488-7586).

DATED this 21st day of November 2025.

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

IDAPA 55 – DIVISION OF CAREER TECHNICAL EDUCATION

55.01.03 – RULES OF CAREER TECHNICAL CENTERS

DOCKET NO. 55-0103-2501

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with [Section 67-5221\(1\)](#), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to [Section 33-101](#), [33-105](#), [33-107](#), [33-1002G](#), [33-1629](#), [33-2202](#), [33-2207](#), and [33-2211](#) in Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2025.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than one (1) day prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This amendment would remove an unnecessary term that is federally defined as part of the [Perkins V](#) program to align with federal changes. The proposed amendment removes the definition of the term concentrator and the reference to the term concentrator from the definition of participation. The current methodology references enrolled concentrator students in a capstone course because the students in a capstone course already meet the definition of a concentrator.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: NA.

NEGOTIATED RULEMAKING: Pursuant to [Section 67-5220\(1\)](#), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 4, 2025 Idaho Administrative Bulletin, [Volume 25-6, p 357-358](#).

INCORPORATION BY REFERENCE: Pursuant to [Section 67-5229\(2\)\(a\)](#), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nicholas Wagner at rules@edu.idaho.gov or (208)-488-7586.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2025.

DATED this 21st day of August, 2025.

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

DIVISION OF CAREER TECHNICAL EDUCATION
Rules of Career Technical Centers

Docket No. 55-0103-2501
Proposed Rulemaking

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 55-0103-2501
(Only Those Sections With Amendments Are Shown.)

55.01.03 – RULES OF CAREER TECHNICAL CENTERS

05. DEFINITIONS.

01. Administrator. A designated school administrator, holding a career technical education program administrator certificate pursuant to IDAPA 08.02.02, “Rules Governing Uniformity,” Subsection 015.04.b., and who oversees and monitors the career technical center programs and is responsible for ensuring the school meets all applicable federal, state, and local school district regulations, rules, and policies. (7-1-24)

02. Capstone Course. A culminating course that requires students to demonstrate the knowledge and skills learned throughout their program of study. (7-1-24)

03. ~~Concentrator Student.~~ ~~A student enrolled in the career technical education program capstone course.~~ (7-1-24)

043. Division. The Division of Career Technical Education. (7-1-24)

054. Enrollment Units. The total number of individual EDUIDs that are reported as enrolled during the previous academic year in a qualifying capstone course, as determined by the division. (7-1-24)

065. Intermediate Course. A course beyond the introductory level that adds to the technical competencies of pathway students, is intended to serve as a prerequisite for a capstone course and is offered in grades 9 through 12. (7-1-24)

076. Participation ~~Data~~. The number of technical skills assessments taken by enrolled ~~concentrator~~ students as part of each required capstone course during the previous academic year. (7-1-24)()

087. Technical Skills Assessment. An assessment given at the culmination of a pathway program during the capstone course and measures a student’s understanding of the technical requirements of the occupational pathway. (7-1-24)

098. Work-based Learning Course. A paid or unpaid, internship, clinical, or apprenticeship that is delivered as part of a Career Technical center program of study. This course must be delivered in conjunction with or after completion of a capstone course. Work-based learning courses must be tied to the program of study, and must be formalized through a written agreement between the school, industry partner, parent, and student. (7-1-24)

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 20, 2025

TAB	DESCRIPTION	ACTION
1	PENDING RULE – DOCKET NO. 08-0202-2501, RULES GOVERNING UNIFORMITY	Action Item
2	PENDING RULE – DOCKET NO. 08-0203-2501, RULES GOVERNING THOROUGHNESS	Action Item
3	PENDING RULE – DOCKET NO. 08-0203-2502, RULES GOVERNING THOROUGHNESS	Action Item

**PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 20, 2025**

SUBJECT

Pending Rule – Docket No. 08-0202-2501, Rules Governing Uniformity

REFERENCE

August 2024	Board approved proposed rule docket 08-0202-2401, aligning teacher apprenticeship and certification with statute and federal law amendments.
November 2024	Board approved pending rule docket 08-0202-2401, aligning teacher apprenticeship and certification with statute and federal law amendments.
August 2025	Board approved proposed rule docket 08-0202-2401, incorporating Code of Ethics and updating CTE certification sections.

APPLICABLE STATUTE, RULE, OR POLICY

Idaho Administrative Code, IDAPA 08.02.02, Rules Governing Uniformity
Idaho Code Title 67, Chapter 52, Idaho Administrative Procedures Act

BACKGROUND/DISCUSSION

Administrative rules promulgated under the Board's authority include IDAPA 08, IDAPA 55, and IDAPA 47.

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). In 2024, HB563 amended Section 67-5292, Idaho Code, to establish an ongoing five-year cycle for review of all administrative rules.

The Board approved the proposed rule in August 2025. Subsequently, the rule was published in the October 1, 2025, Administrative Bulletin of Negotiated Rulemaking, Vol. 25-10. This publication marks the opening of a formal 21-day public comment period. The public comment period closed on October 22, 2025. A total of three comments were received regarding the updates to 08-0202-2501.

Board staff received two comments addressing the Code of Ethics for Idaho Professional Educators (08.02.02.076). Both supported strengthening professional boundaries between educators and students but recommended clarifying language—one suggesting communication be allowed on district-approved (not just district-owned) devices, and another urging the rule to also cover misconduct through school accounts accessed off campus.

A third comment focused on Alternative Authorization – Teacher to New Endorsement (08.02.02.021), opposing limits that would restrict teachers from adding endorsements across certificate types. The commenter emphasized that current flexibility helps districts fill positions and supports professional growth, recommending retention of CTE-specific training language or equivalent options to reduce barriers for educators.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 20, 2025

Updates from the proposed rule to the pending rule stage listed below.

Updates from the proposed rule to the pending rule are in reference to section .076, Code of Ethics for Idaho Professional Educators. Based on public feedback and review from leadership, updates have been made to language pertaining to the unauthorized use of engaging in sexually explicit activity online more comprehensive by including “school-based accounts” as a prohibited means. Additionally, clarifying language pertaining to communication between educators and students that the device and platform for communication must be approved by the district and be on a school-based account.

The original proposed revisions in the proposed stage regarding Section 21, Endorsements, Subsection 02 (Alternative Authorization), have been withdrawn. The pending rule retains the current rule language, with no changes to Subsection 02 or its subparts (a, b, c, and d). No changes are being made to section 21, Endorsements, Subsection 02 (Alternative Authorization).

The final proposed rule language is presented as Attachment 2 – Pending Rule. Changes made after the Board approved the proposed text in August are highlighted in yellow for easy identification.

IMPACT

If the Board approves the pending rule, it will move forward for review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code.

All approved pending rules become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

ATTACHMENTS

Attachment 1 – Notice of Pending Rule Docket No. 08-0202-2501

Attachment 2 – Pending Rule Docket No. 08-0202-2501

Attachment 3 – Public Comment Summary

BOARD STAFF COMMENTS AND RECOMMENDATIONS

Edits made as a result of feedback are highlighted in yellow in Attachment 2.

Staff recommends approval.

BOARD ACTION

I move to approve pending rule – Docket 08-0202-2501, as submitted in Attachment 2.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

IDAPA 08 – STATE BOARD OF EDUCATION**08.02.02 - RULES GOVERNING UNIFORMITY****DOCKET NO. 08-0202-2501****NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with [Section 67-5224\(2\)\(c\)](#), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with [Section 67-5224](#), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to [Article IX, Section 2, Idaho Constitution](#) and under [Section 33-105, 33-107, 33-116, and 33-1612](#), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The proposed changes to subsection 08.02.02.076, Code of Ethics for Idaho Professional Educators aim to reduce unethical interactions between educators and students by limiting educator/student communications to district approved devices and platforms that can be viewed and monitored by district staff. Communication tends to be more professional when personal accounts are not used, and educators are aware that communication with students is not private. Additionally, changes clarify that it is unethical to use a district device or network to engage in any sexually explicit activity, not just accessing pornography. Finally, proposed language provides that co-mingling public funds with any person account is unethical, not just personal bank accounts. The final change regarding the code of ethics section is to clarify that professionalism is not limited to conduct with colleagues but encompasses all professional conduct.

Additional amendments, adds the word “standard” prior to the CTE Administrator certificate. This will indicate the certificate is in the same classification as other standard certificates and eligible for reinstatement. Also, an update to Section 21 (Endorsements) clarifies that Occupational Specialist Certificates are included under the category of Instructional Certificates. This wording change reduces confusion when endorsement requirements refer to “instructional certificates,” but does not change the actual requirements for obtaining or adding endorsements.

Updates from the proposed rule to the pending rule stage listed below.

Updates from the proposed rule to the pending rule are in reference to section .076, Code of Ethics for Idaho Professional Educators. Based on public feedback and review from leadership, updates have been made to language pertaining to the unauthorized use of engaging in sexually explicit activity online more comprehensive by including “school-based accounts” as a prohibited means. Additionally, clarifying language pertaining to communication between educators and students that the device and platform for communication must be approved by the district and be on a school-based account.

The original proposed revisions in the proposed stage regarding Section 21, Endorsements, have been withdrawn. The pending rule retains the current rule language. No changes are being made to section 21, Endorsements, because the proposed revisions would restrict teachers from adding endorsements across certificate types, increasing both time and cost burdens. Additionally, retaining the current language helps districts fill positions more effectively and continues to support professional growth for educators.

The text of the pending rule has been amended in accordance with [Section 67-5227](#), Idaho Code. Only those sections

that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 1, 2025, Idaho Administrative Bulletin, [Volume 25-10, pages 153-167](#).

FEE SUMMARY: Pursuant to [Section 67-5224\(2\)\(d\)](#), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: **NA**

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year: **NA**

ASSISTANCE WITH TECHNICAL QUESTIONS: For assistance with technical questions concerning this pending rule, contact Nicholas Wagner at rules@edu.idaho.gov or (208)-488-7586).

DATED this 21st day of November, 2025.

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

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08.02.02 – RULES GOVERNING UNIFORMITY
000. LEGAL AUTHORITY.

All rules in IDAPA 08.02.02, “Rules Governing Uniformity,” are promulgated pursuant to the authority of the State Board of Education under Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-1612, Idaho Code. Specific statutory references for particular rules are also noted as additional authority where appropriate. (3-15-22)(☐)

(BREAK IN CONTINUITY OF SECTIONS)
015. IDAHO EDUCATOR CREDENTIAL.

All standard educator certificates are valid for five (5) years and are renewable, subject to the applicable renewal requirements set by the **State Board of Education (SBOE)** and any applicable conditions applied to an individual’s certificate by the professional standards commission. (3-15-22)

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 or higher from an accredited college or university and who meets the following requirements or successfully completes an interim certificate requirements: (4-6-23)

a. Minimum Credit Hours. Earned a minimum of twenty (20) semester credit hours in the philosophical, psychological, methodological foundations, instructional technology, and in the professional subject matter of education, which shall include demonstration of competencies as specified in the Idaho comprehensive literacy plan; and (3-15-22)

b. Student Teaching. Complete a minimum of ten (10) undergraduate or six (6) graduate semester credit hours, of student teaching; and (3-15-22)

c. Complete a state board approved educator preparation program and receive an institutional recommendation from the program specifying the grade ranges and subjects for which the applicant is eligible to receive an endorsement; (4-6-23)

i. To receive endorsement in two (2) fields of teaching, preparation must consist of completion of at least thirty (30) semester credit hours in one (1) field of teaching, and completion of at least twenty (20) semester credit hours in a second field of teaching. (3-15-22)

ii. To receive endorsement in (1) field of teaching, preparation must consist of completion of at least forty-five (45) semester credit hours in a single subject area; (3-15-22)

d. Meet or exceed the state qualifying score on the state board approved content area and pedagogy assessments. (4-6-23)

02. Standard Pupil Service Staff Certificate. Persons who serve as school counselors, school psychologists, school social workers, and school nurses are required to hold the Standard Pupil Service Staff Certificate, with the respective endorsement(s) for which they qualify. Persons who serve as a speech-language pathologist, school audiologist, occupational therapist, or physical therapist may be required, as determined by the local educational agency, to hold a Standard Pupil Service Staff Certificate with respective endorsements for which they qualify. (4-6-23)

a. School Counselor Endorsement. To be eligible for a School Counselor endorsement, a candidate must have satisfied the following requirements. (3-15-22)

i. Hold a master's degree and provide verification of completion of an approved program of graduate

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study in school counseling, including sixty (60) semester credits, from a college or university approved by the Idaho State Board of Education SBOE 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 hour requirement; and (3-15-22)

ii. An institutional recommendation is required for a School Counselor endorsement. (3-15-22)

b. School Counselor – Basic Endorsement. (3-15-22)

i. Individuals serving as a school counselor pursuant to [Section 33-1212, Idaho Code](#), shall be granted a School Counselor – Basic 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](#). (3-15-22)

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 endorsement. Renewal date will remain the same as the initial credential. (3-15-22)

c. School Psychologist Endorsement. The renewal credit requirement may be waived if the applicant holds a current and valid National Certification for School Psychologists (NCSP) offered through the National Association of School Psychologists (NASP). To be eligible for a school psychologist 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: (3-15-22)

i. Completion of an approved thirty (30) semester credit hour master's degree in education or psychology and completion of an approved thirty (30) semester 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; (3-15-22)

ii. Completion of an approved sixty (60) semester 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; (3-15-22)

iii. Completion of an approved sixty (60) semester 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 (3-15-22)

iv. Earn a current and valid National Certification for School Psychologists (NCSP) issued by the National Association of School Psychologists (NASP). (3-15-22)

d. Interim Certificate – School Psychologist Endorsement. This certificate will be issued to those who do not meet the educational requirements but hold a master's degree or higher in psychology and are working toward a standard pupil service staff certificate with school psychologist endorsement. This certificate will be issued for three (3) years while the applicant is meeting the educational requirements or obtaining the applicable experience leading to certification. If the educational requirements cannot be met within the three (3)-year time frame of the certificate, the employing LEA may request one (1)-time renewal of this interim certificate for the applicant. (3-15-22)

e. School Nurse Endorsement. To be eligible for a school nurse endorsement, a candidate must complete one (1) of the following options: (3-15-22)

i. 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. (3-15-22)

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ii. 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. (3-15-22)

f. Interim Certificate - School Nurse Endorsement. This certificate will be issued to those who do not meet the educational and/or experience requirements but who hold a valid professional nursing (RN) license in Idaho. This non-renewable certificate will be issued for three (3) years while the applicant is meeting the educational or experience requirements. (3-15-22)

g. Speech-Language Pathologist Endorsement. To be eligible for a speech-language pathologist endorsement, a candidate must possess a master's degree from an accredited college or university in a speech/ language pathology program approved by the ~~State Board of Education SBOE~~. The renewal credit requirement may be waived if the applicant holds a current and valid Certificate of Clinical Competence in Speech-Language Pathology offered through the American Speech-Language-Hearing Association and/or a current and valid speech-language pathologist license issued by the appropriate Idaho state licensing board. (3-15-22)

h. Interim Certificate - Speech-Language Pathologist Endorsement. This certificate will be issued to 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 certificate will be issued for three (3) years while the applicant is meeting the educational requirements. If the educational requirements cannot be met within the three (3)-year timeframe of the certificate, the employing LEA may request one (1)-time renewal of this interim certificate for the applicant if the applicant holds a valid occupational license or is supervised by a speech-language pathologist with a standard pupil service certificate. (3-15-22)

i. Audiology Endorsement. To be eligible for an audiology endorsement, a candidate must possess a master's degree from an accredited college or university in an audiology program approved by the ~~State Board of Education SBOE~~. The renewal credit requirement may be waived if the applicant holds a current and valid Certificate of Clinical Competence in Audiology offered through the American Speech-Language-Hearing Association and/or a current and valid audiologist license issued by the appropriate Idaho state licensing board. (3-15-22)

j. School Social Worker Endorsement. To be eligible for a school social worker endorsement, a candidate must meet the following requirements: (3-15-22)

i. A master's degree in social work (MSW) from a postsecondary institution accredited by an organization recognized by the ~~State Board of Education SBOE~~. The program must be currently approved by the state educational agency of the state in which the program was completed; and (3-15-22)

ii. An institutional recommendation from a state board approved program; and (3-15-22)

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 (3-15-22)

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. (3-15-22)

k. Occupational Therapist Endorsement. To be eligible for an occupational therapist endorsement, a candidate must have a current and valid occupational therapy license issued by the Occupational Therapy Licensure Board of Idaho. The candidate must maintain current and valid occupational therapy licensure for the endorsement to remain valid. (3-15-22)

l. Physical Therapist Endorsement. to be eligible for a physical therapist endorsement a candidate must have a current and valid physical therapy license issued by the Idaho Physical Therapy Licensure Board. The candidate must maintain current and valid physical therapy licensure for the endorsement to remain valid. (3-15-22)

03. Standard Administrator Certificate. Persons who serve as superintendent, director of special education, secondary school principal, or principal of an elementary school with eight (8) or more teachers (including the principal), or are assigned to conduct the summative evaluation of certified staff are required to hold an

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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.

(3-15-22)

a. School Principal Endorsement. To be eligible for the School Principal endorsement, a candidate must meet the following requirements:

(3-15-22)

i. Hold a master's degree from an accredited college or university.

(3-15-22)

ii. Have four (4) years of full-time certificated experience working with students, while under contract in an accredited school setting.

(3-15-22)

iii. Complete an administrative internship in a state-approved program, or have one (1) year of experience as an administrator.

(3-15-22)

iv. Provide verification of completion of a state-approved program of at least thirty (30) semester 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 demonstration of proficiency in conducting instructional and pupil service staff evaluations based on the statewide framework for evaluation, and competencies in the Idaho Standards for School Principals.

(3-15-22)

v. Receive an institutional recommendation for a School Principal endorsement.

(3-15-22)

b. Superintendent Endorsement. To be eligible for the Superintendent endorsement, a candidate must meet the following requirements:

(3-15-22)

i. Hold an education specialist or doctorate degree or complete a comparable post-master's sixth year program at an accredited college or university.

(3-15-22)

ii. Have four (4) years of full-time certificated/licensed experience working with students while under contract in an accredited school setting.

(3-15-22)

iii. Complete an administrative internship in a state board approved program for the superintendent endorsement or have one (1) year of out-of-state experience as an assistant superintendent or superintendent.

(3-15-22)

iv. Provide verification of completion of an approved program of at least thirty (30) semester 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 must include demonstration of proficiency in conducting instructional and pupil service staff evaluations based on the statewide framework for evaluation, and demonstration of competencies in the Idaho standards for superintendents and the Idaho Standards for School Principals.

(3-15-22)

v. Receive an institutional recommendation for a Superintendent endorsement.

(3-15-22)

c. Director of Special Education Endorsement. To be eligible for the Director of Special Education endorsement, a candidate must meet the following requirements:

(3-15-22)

i. Hold a master's degree from an accredited college or university;

(3-15-22)

ii. Have four (4) years of full-time certificated/licensed experience working with students Pre-K-12, while under contract in a school setting;

(3-15-22)

iii. Provide verification of a state board approved program of graduate study of school administration for the preparation of directors of special education at an accredited college or university. This program shall include demonstration of proficiency in conducting instructional and pupil service staff evaluations based on the statewide framework for evaluation, and demonstration of competencies in the Idaho Standards for Directors of Special

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Education and the Idaho Standards for School Principals. Coursework shall include knowledge and competence in understanding the Individuals with Disabilities Education Act, utilizing the Idaho Special Education Manual, special education funding and fiscal accountability, results-driven leadership and accountability in special education, and instructional, behavioral, and management strategies for supporting students in the least restrictive environment.

(3-15-22)

- iv. Have completed an administrative internship in the area of administration of special education; and (3-15-22)

- v. An institutional recommendation is required for Director of Special Education endorsement. (3-15-22)

04. Career Technical Certification Requirements. 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. (3-15-22)

a. Standard Degree Based Career Technical Certificate. Persons who hold a degree based career technical certificate are eligible to teach in a career technical area, subject to the grade range(s) and subject area(s) of the valid endorsement(s) attached to the certificate. All degree based career technical certificates require candidates to meet the Idaho Core Teaching Standards. The degree based career technical certificate is valid for five years. A degree based career technical certificate may be issued to any person who has a baccalaureate degree from an accredited college or university and meets the following requirements: (3-15-22)

- i. Earned a minimum of twenty (20) semester credit hours in the philosophical, psychological, methodological foundations, instructional technology, and in the professional subject matter of education, which shall include demonstration of competencies as specified in the Idaho Comprehensive Literacy Plan; (3-15-22)

- ii. Earned a minimum of twelve (12) semester credit hours in career technical education foundation coursework to include principles and philosophies of career technical education, evaluation and assessment in career technical education, leadership and career technical student organization leadership, career guidance and transition, occupational analysis and curriculum development, and lab safety; (3-15-22)

- iii. Accumulated one thousand (1,000) clock hours of related industry experience, or practicum as approved by the higher education institution, in the respective field of specialization; (3-15-22)

- iv. Completed a total of at least ten (10) undergraduate semester credit hours or six (6) graduate semester credit hours of student teaching; (3-15-22)

- v. Completed a state board approved educator preparation program and received an institutional recommendation specifying the grade ranges and subjects for which the person is eligible to receive an endorsement; (3-15-22)

- (1) To receive endorsement in two (2) fields of teaching, preparation must consist of at least thirty (30) semester credit hours in one (1) field of teaching and completion of at least twenty (20) semester credit hours in a second field of teaching. (3-15-22)

- (2) To receive endorsement in one (1) field of teaching, preparation must consist of completion of at least forty-five (45) semester credit hours in a single subject area. (3-15-22)

- vi. Met or exceeded the state qualifying score on the state board-approved content area and pedagogy assessments. (3-15-22)

- vii. The renewal credits required in Section 060 may be waived if the applicant holds a current, valid certificate from the National Board for Professional Teaching Standards at the time of renewal. Credits must be earned during the validity period of the certificate. (4-6-23)

- b.** Career Technical Education Program Standard Administrator Certificate. The career technical

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education program administrator certificate is required for an individual serving as an administrator, director, or manager of career technical education programs in Idaho public schools. Individuals must meet one (1) of the two (2) following prerequisites to qualify for the career technical education program administrator certificate. The certificate is valid for five (5) years and must meet the renewal requirements pursuant to Section 060 of these rules to renew.

(4-6-23)()

i. Qualify for or hold an advanced occupational specialist certificate or hold an occupational endorsement on a 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 education discipline; hold a master's degree; and complete at least fifteen (15) semester credits of administrative course work to include required credits in: education finance, administration and supervision of personnel, and legal aspects of education. Remaining coursework may be selected from: administration and supervision of occupational programs; instructional supervision; administration internship; curriculum development; curriculum evaluation; research in curriculum; school community relations; communication; teaching the adult learner; coordination of work-based learning programs; and/or measurement and evaluation.

(3-15-22)

ii. Hold a superintendent or principal endorsement on a standard administrator certificate and provide evidence of either a minimum of four (4) years teaching, three (3) of which must be in a career technical discipline; or successful completion of a Division of Career Technical Education career technical education leadership institute; or completion of course work including credits in: principles and foundations of career technical education, career technical student organizations, occupational analysis, curriculum design, one or more externships with career technical education industry advisor partners totaling 100 hours, and ongoing participation in technical advisory committee meetings associated with the school's career technical education programs.

(4-6-23)

c. **Industry-Based Occupational Specialist Certificate.** Persons who hold an occupational specialist career technical certificate are eligible to teach in a career technical program pathway(s), subject to the grade range(s) and pathway areas(s) of the valid endorsement(s) attached to the certificate. All occupational specialist career technical certificates require candidates to meet the core teaching standards of the Idaho Standards for Initial Certification of Professional School Personnel. An occupational specialist career technical certificate may be issued to an experienced industry expert entering the teaching profession and meeting the following eligibility requirements:

(3-15-22)

i. 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 qualified under any one (1) of the following three (3) options:

(3-15-22)

(1) Have three (3) years or six thousand (6,000) 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; or

(3-15-22)

(2) Have a baccalaureate degree in the specific occupation or related area, plus one (1) year or two thousand (2,000) 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; or

(3-15-22)

(3) Hold or have held an 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.

(3-15-22)

ii. **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:

(3-15-22)

(1) **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 Division of Career

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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. (3-15-22)

(2) Pathway II – Cohort Training: Within the first twelve (12) months, the holder must enroll in the Division of Career Technical Education sponsored education pedagogy training and complete all requirements within the three-year validity period of the interim certificate. (3-15-22)

iii. Standard Occupational Specialist Certificate. (3-15-22)

(1) This certificate is issued to individuals who have held a limited occupational specialist certificate and completed one (1) of the pathways for renewable certification. (3-15-22)

(2) The Standard Occupational Specialist Certificate is valid for five (5) years and must meet the renewal requirements 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. (4-6-23)

iv. Advanced Occupational Specialist Certificate. This certificate is issued to individuals who are eligible for the Standard Occupational Specialist Certificate; and 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. The Advanced Occupational Specialist Certificate is valid for five (5) years and must meet the renewal requirements pursuant to Section 060 of these rules to renew. (4-6-23)

05. Postsecondary Specialist Certificate. 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. (3-15-22)

a. To renew this certificate, the renewal application must be accompanied with a new written recommendation from the postsecondary institution (faculty's college dean level or higher). (3-15-22)

b. The candidate must meet the following qualifications: (3-15-22)

i. Hold a baccalaureate degree or higher in the content area being taught; (3-15-22)

ii. Be currently employed by the postsecondary institution in the content area to be taught; and (3-15-22)

iii. Complete and pass a criminal history background check as required by [Section 33-130, Idaho Code](#). (3-15-22)

06. American Indian Tribal Language Certificate. The five(5) federally recognized tribes of Idaho shall provide to the State Department of Education the names of those highly and uniquely qualified individuals who have been designated to teach tribal language(s) in accordance with [Section 33-1280, Idaho Code](#). To be eligible for an American Indian Tribal Languages certificate an applicant designated to teach tribal language(s) shall submit a complete application. If approved the certificate shall be issued for five years and is renewable. (3-15-22)

07. Junior Reserved Officer Training Corps (Junior ROTC) Instructors. (3-15-22)

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a. To be eligible for a Junior ROTC Instructor certificate, an applicant shall submit a complete application and provide a copy of their certificate(s) or letter of completion of an armed forces Junior ROTC training program. (3-15-22)

b. If approved the certificate shall be issued for five years and is renewable. (3-15-22)

08. Additional Renewal Requirements. In addition to specific certificate or endorsement renewal requirements, applicants must meet the following renewal requirements as applicable: (3-15-22)

a. 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: (3-15-22)

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. (3-15-22)

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. (3-15-22)

016. IDAHO INTERIM CERTIFICATE.

A three (3) year interim certificate may be issued to applicants who hold a valid certificate or license from another state or other entity that participates in the National Association of State Directors of Teacher Education and Certification (NASDTEC) Interstate Agreement pursuant to [Section 33-4104, Idaho Code](#), or who are engaged in or completed a non-traditional route or alternative authorization to certification as prescribed herein. An interim certificate gives the holder the same rights and responsibilities as an individual with a standard certificate. (4-6-23)

01. Interim Certificate Not Renewable. Interim certification is only available on a one (1) time basis except under extenuating circumstances approved by the State Department of Education or Division of Career Technical Education. An applicant must meet the requirements of the applicable alternate authorization route or non-traditional route to obtain a standard Idaho Educator Credential during the term of the interim certificate. (3-15-22)

02. Non-Traditional Route to Teacher Certification. An individual may acquire interim certification through a state board approved non-traditional route to teacher certification program. The non-traditional route may be used for first-time certification, subsequent certificates, and additional endorsements. (3-15-22)

a. Individuals who possess a baccalaureate degree or higher from an institution of higher education accredited by an entity recognized by the ~~state board of education~~ **SBOE** may receive an interim instructional certificate. To receive the interim certificate, the individual must: (3-15-22)

i. Complete or enroll in a state board approved program; and (3-15-22)

ii. Pass the state board approved pedagogy and content area assessment. (3-15-22)

b. Standard certification. Upon completion of the non-traditional route the applicant must complete a two (2) year state board approved teacher mentoring program and receive two (2) years of Idaho evaluations with a summative rating of proficient or better. (4-6-23)

03. Idaho Comprehensive Literacy Course. All Idaho teachers working on an interim certificate (alternate authorizations, nontraditional routes, reinstatement, or coming from out of state), must complete a state board approved Idaho Comprehensive Literacy course or assessment as a one-time requirement for standard instructional certificate. (3-15-22)

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04. Teaching For Mathematical Thinking. All Idaho teachers or administrators with an interim certificate (alternate authorizations, nontraditional routes, reinstatements or coming from out of state), with an All Subjects (K-8) endorsement, any mathematics endorsement, Exceptional Child Education endorsement, Blended Early Childhood/Early Childhood Special Education endorsement, or Administrator certificate must complete the state board approved Teaching for Mathematical Thinking, course, as a one-time requirement for full certification.

(4-6-23)

05. Reinstatement of Expired Certificate. An individual holding an expired standard Idaho certificate may be issued an interim certificate. During the validity period of the interim certificate, the applicant must meet the following requirements to obtain standard certification during the term of the interim certificate:

(3-15-22)()

a. Two (2) years of Idaho evaluations, as applicable to the type of certification, with a summative rating of proficient or better;

(4-6-23)

b. Measured annual progress on specific goals identified on the applicant's Individualized Professional Learning Plan;

(3-15-22)

c. Completion of six (6) credit renewal requirement; and

(4-6-23)

d. Completion of the Idaho Comprehensive Literacy Course or Teaching for Mathematical Thinking as provided herein.

(3-15-22)

e. Individuals holding an expired certificate that was in good standing at the time the certificate expired, may have the certificate reinstated within one (1) year of the time the certificate expired by completing any outstanding professional development requirements that were pending at the time the certificate expired.

(4-6-23)

06. Codes of Ethics. All laws and rules governing standard certificated staff with respect to conduct, discipline, and professional standards shall apply to all certified staff serving in an Idaho public school, including those employed under an interim certificate.

(3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

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21. ENDORSEMENTS.

Holders of an Instructional Certificate ~~or, including~~ Occupational Specialist Certificates must have one (1) or more endorsements attached to their certificate as applicable to the type of certification. Instructional staff are eligible to teach in the grades and content areas of their endorsements. Idaho educator preparation programs shall prepare candidates for endorsements in accordance with these certification requirements and the standards approved by the board. An official statement from the college of education of competency in a content area or field is acceptable in lieu of required credits if such statements are created in consultation with the department or division of the accredited college or university in which the competency is established and are approved by the director of teacher education of the recommending college or university. Statements must include the number of credits the competency evaluation is equivalent to. To add an endorsement to a certificate, an individual must complete the credit hour requirements as established by the ~~state board of education-SBOE~~ and meet or exceed the state qualifying score on a board approved content, pedagogy or performance assessment. (4-6-23)()

01. Clinical Experience Requirement. All standard endorsements require supervised clinical experience in the relevant content area, or a State Department of Education or Division of Career Technical Education approved alternative clinical experience as applicable to the area of endorsement. (4-6-23)

02. Alternative Authorization - Teacher to New Endorsement. This alternative authorization allows a local education agency to request additional endorsement for a candidate ~~who holds an instructional certificate applicable to the type of endorsement~~. This authorization is valid for one (1) year and may be renewed for two (2) additional years with evidence of satisfactory progress on one (1) of the following options: (4-6-23)()

a. Option I -- An official statement of competency in a teaching area or field from the college of education of an accredited college or university is acceptable in lieu of courses if the statement is created in consultation with the department or division in which the competency is established and is approved by the director of teacher education of the recommending college or university. (3-15-22)

b. Option II -- Master's degree or higher. By earning a graduate degree in a content specific area, candidates may add an endorsement in that same content area to a valid instructional certificate. Successful completion of a one (1) year, state board approved mentoring program must be completed during the first year to maintain the endorsement. (4-6-23)

c. Option III -- Content area assessment and mentoring. A candidate may add an endorsement by successfully completing a state board-approved content areas assessment and a one-year, state board-approved mentoring program within the first year of authorization. (3-15-22)

d. For all candidates ~~moving to an initial certification in a career technical education endorsement area holding a career technical education certification~~, the candidate will be required to complete or have completed ~~coursework in principles and foundations of career technical education and career technical student organizations, training in occupational analysis and curriculum design, and~~ a minimum of two hundred (200) internship/externship ~~or professional industry work experience~~ hours in the career technical education endorsement area. (4-6-23)()

03. National Board Certification. An applicant holding an instructional certificate and current national board certification may add an endorsement in a corresponding content-specific area. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

76. CODE OF ETHICS FOR IDAHO PROFESSIONAL EDUCATORS (SECTIONS 33-1208 AND 33-1209, IDAHO CODE).

Believing in the worth and dignity of each human being, the professional educator recognizes the supreme importance of pursuing truth, striving toward excellence, nurturing democratic citizenship and safeguarding the freedom to learn and to teach while guaranteeing equal educational opportunity for all. The professional educator accepts the responsibility to practice the profession according to the highest ethical principles. The Code of Ethics for Idaho Professional Educators symbolizes the commitment of all Idaho educators and provides principles by which to judge conduct. (3-15-22)

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01. Aspirations and Commitments. (3-15-22)

a. The professional educator aspires to stimulate the spirit of inquiry in students and to provide opportunities in the school setting that will help them acquire viable knowledge, skills, and understanding that will meet their needs now and in the future. (3-15-22)

b. The professional educator provides an environment that is safe to the cognitive, physical and psychological well-being of students and provides opportunities for each student to move toward the realization of his goals and potential as an effective citizen. (3-15-22)

c. The professional educator, recognizing that students need role models, will act, speak and teach in such a manner as to exemplify nondiscriminatory behavior and encourage respect for other cultures and beliefs. (3-15-22)

d. The professional educator is committed to the public good and will help preserve and promote the principles of democracy. He will provide input to the local school board to assist in the board's mission of developing and implementing sound educational policy, while promoting a climate in which the exercise of professional judgment is encouraged. (3-15-22)

e. The professional educator believes the quality of services rendered by the education profession directly influences the nation and its citizens. He strives, therefore, to establish and maintain the highest set of professional principles of behavior, to improve educational practice, and to achieve conditions that attract highly qualified persons to the profession. (3-15-22)

f. The professional educator regards the employment agreement as a pledge to be executed in a manner consistent with the highest ideals of professional service. He believes that sound professional personal relationships with colleagues, governing boards, and community members are built upon integrity, dignity, and mutual respect. The professional educator encourages the practice of the profession only by qualified persons. (3-15-22)

02. Principle I - Professional Conduct. A professional educator abides by all federal, state, and local education laws and statutes. Unethical conduct shall include the conviction of any felony or misdemeanor offense set forth in [Section 33-1208, Idaho Code](#). (3-15-22)

03. Principle II - Educator/Student Relationship. A professional educator maintains a professional relationship with all students, both inside and outside the physical and virtual classroom. All digital communication with students must occur on a approved district devices and platform approved by the district and on a school-based account. Unethical conduct includes, but is not limited to: (3-15-22)()

a. Committing any act of child abuse, including physical or emotional abuse; (3-15-22)

b. Committing any act of cruelty to children or any act of child endangerment; (3-15-22)

c. Committing or soliciting any sexual act from any minor or any student regardless of age; (3-15-22)

d. Committing any act of harassment as defined by local education agency policy; (3-15-22)

e. Soliciting, encouraging, or consummating a romantic relationship (whether written, verbal, virtual, or physical) with a student, regardless of age; (3-15-22)

f. Soliciting or encouraging any form of personal relationship with a student that a reasonable educator would view as undermining the professional boundaries necessary to sustain an effective educator-student relationship; (3-15-22)

g. Using inappropriate language including, but not limited to, swearing and improper sexual comments (e.g., sexual innuendos or sexual idiomatic phrases); (3-15-22)

h. Taking or possessing images (digital, photographic, or video) of students of a harassing,

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confidential, or sexual nature; (3-15-22)

i. Inappropriate contact with any minor or any student regardless of age using electronic or social media; (3-15-22)

j. Furnishing alcohol or illegal or unauthorized drugs to any student or allowing or encouraging a student to consume alcohol or unauthorized drugs except in a medical emergency; (3-15-22)

k. Conduct that is detrimental to the health or welfare of students; and (3-15-22)

l. Deliberately falsifying information presented to students. (3-15-22)

04. Principle III - Alcohol and Drugs Use or Possession. A professional educator refrains from the abuse of alcohol or drugs during the course of professional practice. Unethical conduct includes, but is not limited to: (3-15-22)

a. Being on school premises or at any school-sponsored activity, home or away, involving students while possessing, using, or consuming illegal or unauthorized drugs; (3-15-22)

b. Being on school premises or at any school-sponsored activity, home or away, involving students while possessing, using, or consuming alcohol; (3-15-22)

c. Inappropriate or illegal use of prescription medications on school premises or at any school-sponsored events, home or away; (3-15-22)

d. Inappropriate or illegal use of drugs or alcohol that impairs the individual's ability to function; and (3-15-22)

e. Possession of an illegal drug as defined in [Title 37, Chapter 27, Idaho Code](#), Uniform Controlled Substances. (3-15-22)

05. Principle IV - Professional Integrity. A professional educator exemplifies honesty and integrity in the course of professional practice. Unethical conduct includes, but is not limited to: (3-15-22)

a. Fraudulently altering or preparing materials for licensure or employment; (3-15-22)

b. Falsifying or deliberately misrepresenting professional qualifications, degrees, academic awards, and related employment history when applying for employment or licensure; (3-15-22)

c. Failure to notify the state at the time of application for licensure of past revocations or suspensions of a certificate or license from another state; (3-15-22)

d. Failure to notify the state at the time of application for licensure of past criminal convictions of any crime violating the statutes or rules governing teacher certification; (3-15-22)

e. Falsifying, deliberately misrepresenting, or deliberately omitting information regarding the evaluation of students or personnel, including improper administration of any standardized tests (changing test answers; copying or teaching identified test items; unauthorized reading of the test to students, etc.); (3-15-22)

f. Falsifying, deliberately misrepresenting, or deliberately omitting reasons for absences or leaves; (3-15-22)

g. Falsifying, deliberately misrepresenting, or deliberately omitting information submitted in the course of an official inquiry or investigation; (3-15-22)

h. Falsifying, deliberately misrepresenting, or deliberately omitting material information on an official evaluation of colleagues; and (3-15-22)

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i. Failure to notify the state of any criminal conviction of a crime violating the statutes and/or rules governing teacher certification. (3-15-22)

06. Principle V - Funds and Property. A professional educator entrusted with public funds and property honors that trust with a high level of honesty, accuracy, and responsibility. Unethical conduct includes, but is not limited to: (3-15-22)

a. Misuse, or unauthorized use, of public or school-related funds or property including a device or platform approved by the district or on a school-based account; ~~district devices and networks;~~ (3-15-22)()

b. Failure to account for school funds collected from students, parents, patrons, or other donors from all sources, including online donation platforms; (3-15-22)

c. Submission of fraudulent requests for reimbursement of expenses or for pay; (3-15-22)

d. Co-mingling of public or school-related funds in personal ~~bank~~ account(s); (3-15-22)()

e. Unauthorized Use of school property for private financial gain; (3-15-22)()

f. ~~Use of school computers to deliberately view or print pornography~~ Engaging in sexually explicit activity on a school device or network, device or platform approved by the district or on a school-based account, including, but not limited to, viewing pornographic or sexually explicit images, engaging in sexually explicit conversations, or creating or exchanging any type of sexually explicit content; and, (3-15-22)()

g. Deliberate use of poor budgeting or accounting practices. (3-15-22)

07. Principle VI - Compensation. A professional educator maintains integrity with students, colleagues, parents, patrons, or business personnel when accepting gifts, gratuities, favors, and additional compensation. Unethical conduct includes, but is not limited to: (3-15-22)

a. Unauthorized solicitation of students or parents of students to purchase equipment, supplies, or services from the educator who will directly benefit; (3-15-22)

b. Acceptance of gifts from vendors or potential vendors for personal use or gain where there may be the appearance of a conflict of interest; (3-15-22)

c. Tutoring students assigned to the educator for remuneration unless approved by the local board of education; ~~and;~~ (3-15-22)()

d. Soliciting, accepting, or receiving a financial benefit greater than fifty dollars (\$50) as defined in Section 18-1359(b), Idaho Code; ~~and;~~ (3-15-22)()

e. Keeping for oneself donations, whether money or items, that were solicited or accepted for the benefit of a student, class, classroom, or school. (3-15-22)

08. Principle VII - Confidentiality. A professional educator complies with state and federal laws and local school board policies relating to the confidentiality of student and employee records, unless disclosure is required or permitted by law. Unethical conduct includes, but is not limited to: (3-15-22)

a. Sharing of confidential information concerning student academic and disciplinary records, personal confidences, health and medical information, family status or income, and assessment or testing results with inappropriate individuals or entities; and (3-15-22)

b. Sharing of confidential information about colleagues obtained through employment practices with inappropriate individuals or entities. (3-15-22)

09. Principle VIII - Breach of Contract or Abandonment of Employment. A professional educator fulfills all terms and obligations detailed in the contract with the local board of education or education agency for the duration of the contract. Unethical conduct includes, but is not limited to: (3-15-22)

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a. Abandoning any contract for professional services without the prior written release from the contract by the employing local education agency; (3-15-22)

b. Willfully refusing to perform the services required by a contract; and, (3-15-22)

c. Abandonment of classroom or failure to provide appropriate supervision of students at school or school-sponsored activities to ensure the safety and well-being of students. (3-15-22)

10. Principle IX - Duty to Report. A professional educator reports breaches of the Code of Ethics for Idaho Professional Educators and submits reports as required by Idaho Code. Unethical conduct includes, but is not limited to: (3-15-22)

a. Failure to comply with [Section 33-1208A, Idaho Code](#), (reporting requirements and immunity); (3-15-22)

b. Failure to comply with [Section 16-1605, Idaho Code](#), (reporting of child abuse, abandonment or neglect); (3-15-22)

c. Failure to comply with [Section 33-512B, Idaho Code](#), (suicidal tendencies and duty to warn); and (3-15-22)

d. Having knowledge of a violation of the Code of Ethics for Idaho Professional Educators and failing to report the violation to an appropriate education official. (3-15-22)

11. Principle X - Professionalism. A professional educator ensures just and equitable treatment for all members of the profession in the exercise of academic freedom, professional rights and responsibilities—~~while~~ A professional educator follow~~ing~~s generally recognized professional principles. Unethical conduct includes, but is not limited to: ~~(3-15-22)~~ ()

a. Any conduct that seriously impairs the Certificate holder's ability to teach or perform his professional duties; (3-15-22)

b. Committing any act of harassment toward a colleague; (3-15-22)

c. Failure to cooperate with the Professional Standards Commission in inquiries, investigations, or hearings; (3-15-22)

d. Using institutional privileges for the promotion of political candidates or for political activities, except for local, state or national education association elections; (3-15-22)

e. Willfully interfering with the free participation of colleagues in professional associations; and (3-15-22)

f. Taking, possessing, or sharing images (digital, photographic, or video) of colleagues of a harassing, confidential, or sexual nature. (3-15-22)

2025 OSBE Proposed Rule Public Comment Summary

Summary of Comments

During the 21-day comment Period, October 1 through October 22, there were a total of 26 comments submitted. The comments pertained to different aspects of the sections of the proposed rules; however, the majority were surrounding the updated incorporated by reference document Special Education Manual in 08.0203.2501. All public comments submitted to the State Board of Education were received through email. The Idaho Department of Education (IDE) received their own feedback and comments separately from the State Board of Education. The summary of their feedback and comments is included and labeled in The State Board of Education's summary.

There were a total of 5 Rules open for Public comment during this comment period (October 1-22).

1. IDAPA – 08-0202-2501 – Rules Governing Uniformity – Regarding CTE endorsements and Code of Ethics
2. IDAPA – 08-0203-2501 – Rules Governing Thoroughness – Regarding SS content standards
3. IDAPA – 08-0203-2502 – Rules Governing Thoroughness – Regarding Special Education Manual
4. IDAPA – 08-0205-2501 – Rules Governing Pay for Success Contracting – Regarding the entire rule removal
5. IDAPA – 55-0103-2501 – Rules of Career Technical Centers– Regarding definition removal

No comments were received for the other rules listed below.

- IDAPA – 08-0205-2501 – Rules Governing Pay for Success Contracting – Regarding the entire rule removal
- IDAPA – 55-0103-2501 – Rules of Career Technical Centers– Regarding definition removal

Rules Governing Uniformity 08.0202.2501

Summary: The proposed changes to subsection 08.02.02.076, Code of Ethics for Idaho Professional Educators aim to reduce unethical interactions between educators and students by limiting educator/student communications to district approved devices and platforms that can be viewed and monitored by district staff.

Additional changes are regarding CTE certification. To add the word “standard” prior to the CTE Administrator certificate, indicating it is in the same classification as other standard certificates and eligible for reinstatement as well as other general clarification around current requirements for using alternative routes to add endorsement for current certificate holders, eliminating duplicative language regarding minimum required coursework for all CTE instructional staff, and adds a reference to the new lifetime certificate.

Public Comment (2) – Amy White

The comment was received in email form. The commenter supports the goal of ensuring professional communication between educators and students but suggests revising the proposed rule to allow communication on district-approved devices, not just district-owned devices. They note that in some

situations—such as extracurricular activities or emergencies—using a personal device may be appropriate if approved by the district. This flexibility would maintain professional standards while accommodating practical communication needs.

Public Comment (3) – Kate Haas

The comment was received in email form. The commenter identifies a potential loophole in Rule 08.02.02.076.06(f) concerning inappropriate use of school technology. While the rule prohibits engaging in sexually explicit activity on school devices or networks, it does not explicitly cover school-based accounts (e.g., school Google accounts), which can be accessed from any device or location. The commenter suggests expanding the rule to include activity conducted through school accounts, regardless of the device or network used, to prevent inappropriate behavior outside of school premises.

Public Comment (19) – Kristi Enger

The commenter expresses concern about proposed changes to IDAPA 08.02.02.021, specifically the section on Alternative Authorization – Teacher to New Endorsement. They explain that the current rule has allowed flexibility for teachers to add endorsements across instructional areas, including between CTE and non-CTE fields, which has helped districts fill positions efficiently. The proposed new language—requiring that endorsements match the “type of instructional certificate” held—would restrict that flexibility and make it harder for teachers to earn new endorsements, adding cost and time burdens. The commenter also cautions against removing language that supports CTE-specific training, arguing that it’s essential preparation for success in CTE classrooms. They recommend keeping that section intact or revising it to allow equivalent “training” rather than only formal coursework, emphasizing that these changes would maintain teacher support and program quality without adding unnecessary barriers.

08.0202.2501 SUMMARY OF COMMENTS (3)

Two comments addressed the Code of Ethics for Idaho Professional Educators (08.02.02.076). Both supported strengthening professional boundaries between educators and students but recommended clarifying language—one suggesting communication be allowed on district-approved (not just district-owned) devices, and another urging the rule to also cover misconduct through school accounts accessed off campus.

A third comment focused on Alternative Authorization – Teacher to New Endorsement (08.02.02.021), opposing limits that would restrict teachers from adding endorsements across certificate types. The commenter emphasized that current flexibility helps districts fill positions and supports professional growth, recommending retention of CTE-specific training language or equivalent options to reduce barriers for educators.

Rules Governing Thoroughness 08.0203.2501

Summary: The proposed rule and redline describe/show that SDE will be revising the Special Education Manual incorporated by reference document.

Public Comment (4) – Rebecca Summerlin

The comment was received in email form. The commenter supports changing special education evaluation timelines from calendar days to school days, arguing this would create a fairer and more practical system

for completing student evaluations. They explain that calendar days continue to elapse even when schools are closed—such as during holidays, breaks, or unexpected closures—reducing the actual working time teams have to conduct assessments and meetings. This issue is especially significant for districts with four-day school weeks, which already lose a workday each week under the same calendar-based deadlines.

They emphasize that calendar-day deadlines pressure staff to rush evaluations, which can compromise quality, collaboration, and student outcomes. In contrast, adopting a 45 school-day timeline would ensure evaluations occur when staff and resources are available

The commenter, a special education teacher with 12 years of experience, argues that evaluation timelines should be based on school days rather than calendar days. They explain that using calendar days creates unrealistic expectations, since time continues to count down during breaks, professional development days, and closures—periods when staff and students are not present. This is particularly burdensome for districts on four-day school weeks.

Public Comment (5) – Kerstyn Martin

The commenter advocates for a 45 school day timeline, which would reflect actual working conditions, allow for more thorough and collaborative evaluations, and prevent compliance issues caused by factors outside a district's control. The commenter notes that this approach is already accepted in other states through OSEP audits and maintains accountability while supporting fairer, more practical implementation.

Public Comment (6) – Letha Blick

The commenter urges the Idaho State Board of Education to adopt a 45 school day evaluation timeline instead of the 60 calendar day timeline proposed in the draft Special Education Manual. (Attachment references were provided in the email)

Argument points

- Calendar day timelines are unrealistic and inequitable, especially for districts with 4-day school weeks or extended breaks (holiday, summer, harvest, etc.), because days continue to count when school is not in session.
- A 45 school day rule aligns with Idaho's former "State Exception Rule," which excluded breaks of 5 days or more, and produces nearly identical completion dates under typical school calendars.
- Using calendar days can cause evaluations to fall during school breaks, making it impossible to complete assessments, hold meetings, or collect intervention data within the required period—potentially exposing districts to due process complaints or FAPE (Free Appropriate Public Education) violations.
- Implementing a 60-calendar-day rule would force districts to extend or renegotiate staff contracts (teachers, psychologists, SLPs, OTs, PTs, nurses, etc.) to cover breaks, which is financially and logistically unfeasible given staffing shortages and limited budgets.

Citing's under IDEA

- The IDEA regulation allows states to define their own "reasonable" timelines for evaluations.
- Several states—including California, Florida, Michigan, Ohio, Missouri, North Carolina, Tennessee, Utah, and Nevada—already use school-day-based timelines that have been approved through OSEP's Differentiated Monitoring and Support (DMS) audits.

- Recent DMS audits (Alaska 2023, Colorado 2024, Nevada 2024, Kansas 2025) confirm that 45-school-day timelines are federally compliant.

Additionally, the letter includes supportive comments from multiple Idaho special education directors who describe staffing shortages, scheduling challenges, and lack of summer personnel as major barriers to compliance with a 60-calendar-day rule.

Public Comment (7) – Letha Blick

The commenter asks the Idaho State Board of Education to add a formal appeal process to Chapter 13 of the 2025 Idaho Special Education Manual, which governs state complaint procedures.

They explain that currently, once the Idaho Department of Education (IDE) issues findings or corrective actions following a state complaint, there is no avenue for appeal. Districts that disagree with those findings can only file for a due process hearing, but the IDE is usually dismissed from such cases—leaving no meaningful way to challenge the IDE’s determinations short of filing an expensive and burdensome lawsuit in federal court.

The commenter argues that this lack of review undermines fairness, transparency, and accountability in the state complaint system. They propose a detailed, multi-step appeal framework.

1. Informal review with IDE to clarify or resolve disputes;
2. Formal written appeal within 30 days;
3. Independent review panel (within IDE or via the Office of Administrative Hearings) empowered to uphold, modify, or overturn findings;
4. Decision within 45 days;
5. Further legal recourse available if either party disagrees.

They note that **other states** already have similar procedures, and adopting one would align Idaho’s practices with IDEA’s intent for balanced, collaborative dispute resolution. (Attachment reference were provided in the email)

Public Comment (8) – Suzanna Altsuler

The commenter expresses support for adopting a 45-school-day evaluation timeline. They explain that in rural districts with limited staff spread across large geographic areas, it is difficult to complete evaluations within the current 60-calendar-day limit—especially during extended breaks. A 45-school-day timeline would ensure that students are present during the evaluation period and help alleviate logistical challenges faced by service providers.

Public Comment (9) – Debi Smith

The commenter supports approval of the revised Idaho Special Education Manual, noting they helped with its rewrite. They say it was a collaborative, statewide effort to align with IDEA and state law while improving clarity, accessibility, and support for students with disabilities. Key updates include clearer language, added guidance for homeschool students, and better organization. They urge the Board to approve the manual, emphasizing that it prioritizes students’ needs and strengthens special education practice in Idaho.

Public Comment (10) – Letha Blick

The commenter recommends expanding Section 3 (Charter Schools and Dual Enrollment) to provide clearer guidance and safeguards for both districts and charter schools. Specifically, they suggest:

- Adding language to ensure dual enrollment because it follows open enrollment capacity rules, giving priority to full-time district students when programs are full or closed to open enrollment.
- Clarifying how ADA and Child Count funding will be proportionally allocated through a required MOU between the public district and charter school.
- Establishing a process for resolving disputes if the district and charter school cannot agree on MOU terms.
- Requiring the manual to list mandatory MOU elements, including:
 - o Service responsibilities (e.g., who provides 1:1 aides or nurses for medically fragile students).
 - o Transportation arrangements.
 - o Financial agreements for participation in district programs.
 - o Enrollment priorities and termination conditions for the agreement (e.g., safety, nonpayment, or lack of staffing).

The commenter emphasizes that these clarifications would help prevent confusion, ensure fair access, and address practical challenges—particularly for students needing intensive support services.

Public Comment (11) – Letha Blick

The commenter recommends that Idaho maintain its current rule ending FAPE (Free Appropriate Public Education) at the end of the semester in which a student turns 21. They argue this aligns with Idaho Code, which defines “school age” as up to age 21, and with IDEA, which allows states to limit FAPE based on their own age requirements for general education students. Extending services until age 22, they contend, would go beyond what state law allows, create funding and staffing burdens, and contradict legislative intent. Using the semester cutoff is described as a consistent, educationally sound approach that supports orderly transitions and resource planning.

Public Comment (12) – Letha Blick

The commenter supports keeping decisions about graduation ceremony participation under local district control. They believe graduation is a recognition of students who have earned their diplomas or met adapted IEP requirements, and that allowing students who refused to complete graduation credits to participate undermines that purpose. The commenter notes that nearly all students, including those with disabilities, met requirements or used adapted pathways, and that the few who did not were given multiple opportunities to do so. They emphasize that local control allows districts to apply fair, consistent standards that reflect community expectations and uphold the integrity of the ceremony.

Public Comment (13) – Gabby Twiss

The commenter believes that only students who have met graduation or IEP requirements should participate in graduation ceremonies. They’re concerned that including students who haven’t met these standards could lessen the meaning of a diploma and cause confusion about its value. While they support

recognizing effort and celebrating all students, they suggest holding a separate event for those who haven't yet graduated, rather than changing the purpose of the graduation ceremony itself.

Public Comment (14) – Gabby Twiss

The commenter is asking for a clear appeal process in the Idaho Special Education Manual for districts that want to challenge IDE findings or corrective actions under Chapter 13. Right now, once a decision is issued, districts have no meaningful way to request review, since the IDE is usually dismissed from due process hearings. They argue that adding an appeal process would make the system fairer, more transparent, and more accountable, giving districts a way to address decisions they believe are incorrect.

Comment (15) – Chynna Hirasaki

The commenter, former state Special Education Director, strongly supports approving the proposed Idaho Special Education Manual. They emphasize that the revision process was transparent, collaborative, and focused on students, with input from parents, educators, advocates, and legal experts across the state. The updates are designed to ensure IDEA compliance, improve clarity and consistency, and prioritize timely evaluation and services for students with disabilities. They note that removing state exceptions for evaluation timelines ensures equitable access for all students and that the Department has provided guidance and resources to support implementation. They urge the Board to approve the Manual as written, highlighting that it provides a clear, legally sound, and student-centered framework for special education in Idaho.

Comment (16) – Stephanie Linder

The commenter, is asking the Board to include a formal appeal process for state complaint findings and corrective actions in Chapter 13 of the Special Education Manual. They note that right now, once a complaint decision is issued, districts have no practical way to challenge it, since the IDE is usually dismissed from due process hearings. They argue that adding an appeal process would make the system fairer, more transparent, and more accountable, protecting students' rights and building trust in the complaint process. They suggest a time-limited, clearly defined review handled by an internal or independent panel to ensure consistency and procedural fairness.

Comment (17) – Julie Mead

The commenter supports the Proposed 2025 Idaho Special Education Manual, highlighting that the revision process was collaborative, thoughtful, and involved input from educators, administrators, parents, and statewide experts. They emphasize that the updates are practical, student-focused, and grounded in real-world experience, not administrative convenience. Key improvements include fixing the initial evaluation timeline to prevent delays caused by school breaks and clarifying the Discipline chapter to better guide districts in addressing challenging behaviors while protecting student rights. Overall, they believe the revisions provide clarity, consistency, and stronger support for students, families, and districts, and urge the Board to approve the manual.

Comment (18) – Joy Jansen

The commenter asks the State Board of Education to reconsider adopting a 45 school-day evaluation timeline instead of the proposed 60 calendar-day timeline in the revised Idaho Special Education Manual. They explain that this approach aligns better with Idaho's previous rule, which excluded long school breaks from the timeline, making it more practical and equitable for districts. They note that special education

directors and school psychologists previously requested this change but were denied and urge the Board to revisit and support the 45 school-day option.

Comment (20) – Lyndon Nguyen

The commenter raises significant concerns that several proposed changes in the 2025 Idaho Special Education Manual weaken parent rights and IDEA compliance. They argue that removing examples and definitions—such as for “change of placement,” “educational program,” and “stay put”—creates ambiguity that could allow districts to limit services or exclude students without proper oversight. They strongly object to allowing districts to implement IEPs over parent objections without due process, saying this violates IDEA’s guarantee of meaningful parent participation. The commenter also calls for stronger enforcement mechanisms to ensure FAPE, proper record access, and agency accountability under federal law. They criticize the quality and impartiality of hearing officers, the lack of clear procedures for discovery and subpoenas, and the overall imbalance of power between parents and districts in due process hearings. Finally, they object to replacing the term “district” with “LEA,” arguing that it misrepresents who may be held responsible under IDEA and ignores recent federal findings that such language is noncompliant.

Comment (21) – Rachelle Nielson

The commenter objects to the revised language about graduation ceremonies, arguing that it removes accountability for students with disabilities to meet their IEP graduation requirements before participating in graduation events. They believe this creates an unfair double standard, since general education students must complete all requirements to participate. The commenter supports maintaining flexibility for individual students through the IEP process but insists that participation in graduation ceremonies should be tied to meeting clearly defined, agreed-upon expectations to ensure fairness and uphold high standards for all students.

Comment (22) – Kristian Beckett

The commenter is an attorney representing parents in special education due process cases. They have stated that while the proposed Idaho Special Education Manual improvements are a positive start, they do not go far enough to protect the rights of students and parents under IDEA. They believe the current system allows schools to circumvent federal requirements and that Idaho should strengthen the manual to ensure fairness, accountability, and enforcement.

They urge stronger accountability and enforcement measures to prevent schools from avoiding legal obligations. Key recommendations included adding clear definitions for “change of placement” and “educational program,” strengthening parent participation and stay-put protections, and establishing an enforcement process for districts that fail to comply. They also recommended consistent use of the term “public agency,” clear qualifications and oversight for hearing officers, and inclusion of a state-level review process for due process decisions. Additional suggestions focused on defining fair hearing procedures, clarifying burden of proof rules, limiting the use of civil trespass orders for disability-related behavior, ensuring timely access to student records, and empowering hearing officers to enforce compliance. The commenter also emphasized the importance of parent and advocate involvement in developing and revising special education policy.

Comment (23) – Rachelle Nielson

The commenter urges the Idaho State Board of Education to reconsider the proposed 60-calendar-day evaluation timeline in the new Special Education Manual and instead adopt a 45-school-day timeline. They argue that 45 school days better align with the previous state rule that excluded long breaks and is more practical for districts to meet. Using calendar examples, they showed that a 60-day limit would often force evaluations to be completed during holiday or summer breaks, reducing available time for testing and collaboration. They also warned that the proposed change could increase due process complaints and staffing burdens, especially given shortages of special education personnel. The commenter noted that several other states use a 45-school-day timeline, which they said balances compliance with realistic implementation.

Comment (24) – Romona Lee

The commenter generally supports the proposed updates to Idaho’s Special Education Manual, especially the clearer glossary definitions—such as the inclusion of “counseling services”—though they note a small grammatical fix is needed. They raise concerns about the financial impact of extending services to age 22 and about the proposed 60-calendar-day evaluation timeline, arguing that it could unintentionally delay referrals and suggesting instead a 45-school-day limit with no exceptions. They appreciate clarifications around Independent Educational Evaluations (IEEs) but find some of the new language confusing and potentially allowing multiple IEEs at public expense. They also question the removal of the six-month residency rule for foster parents’ decision-making authority, seek clarification on whether paraprofessional qualifications from other states will be accepted, and support updates regarding private school evaluations. Finally, they ask for clearer language on how LEAs should define “appropriate services” for dually-enrolled homeschool students.

Comment (25) – Joy Jansen

The commenter requests that the State Board of Education provide more comprehensive guidance for serving students in juvenile facilities. They note that the current Juvenile Detention and Special Education document only addresses evaluation and instruction but lacks direction on key areas such as discipline, manifestation determinations, and how IDEA requirements align with state Juvenile Justice Services policies.

08.0203.2501 SUMMARY OF COMMENTS (21)

The majority of comments focused on evaluation timelines, with most urging the Board to replace the proposed 60-calendar-day rule with a 45-school-day timeline. Commenters said this would be more practical, especially for rural or four-day-week districts, prevent evaluation delays during holidays and summer, and align with Idaho’s previous rule and other states’ practices.

Several commenters called for adding a formal appeal process to the manual’s state complaint procedures, arguing that districts currently have no way to appeal Idaho Department of Education findings or corrective actions. They said an appeal option would promote fairness, transparency, and accountability.

A few commenters expressed strong support for approving the manual as written, praising the collaborative and statewide effort to align with IDEA and improve clarity, discipline guidance, and parent engagement.

Others raised concerns about parent rights and IDEA compliance, saying the revisions weaken procedural safeguards by removing key definitions and limiting parent participation or due process protections.

Several comments opposed allowing students who haven't met graduation or IEP requirements to participate in graduation ceremonies, calling it unfair and inconsistent with general education standards.

Additional feedback included concerns about extending FAPE eligibility to age 22 (due to funding and legal conflicts), requests for clearer guidance on charter school and dual enrollment procedures, and technical suggestions about glossary terms, paraprofessional qualifications, foster parent definitions, requesting comprehensive guidance for serving students in juvenile facilities addressing more than evaluation and instruction, and homeschool provisions.

Rules Governing Thoroughness 08.0203.2502

Summary: The proposed rule and redline describe/show that SDE will be revising the k-12 social studies content standards incorporated by reference documents, including Grade 4 Social Studies and Grades 6-12 U.S. History I content standards. Revisions also include a new section on Grades 9-12 Western Civilization.

Public Comment (1) – David Talcot

The comment was received in email form. It expresses the support of the revisions made in the k-12 Social Studies Standards proposed.

- They are in support because they believe it reduces ideological bias, particularly with the influence of “20th century progressive ideology” on students thinking. Additionally, they are in support because they believe it is clearer, promotes traditional, and historical American perspective, and represents a positive overall improvement.

Public Comment (26 Received by IDE) – Callie Avondet

The comment was received in email form by the SDE. They express their hope that the 4th grade social studies standards include the study of influential people in Idaho history. Specifically, Rebecca Brown Mitchell from Idaho Falls/Eagle Rock. The commenter notes that Ms. Mitchell was the driving force behind the passage of women's suffrage in Idaho, successfully lobbied the Idaho legislature for prison reform and to change the age of consent for girls from 10 to 18, and was the first woman to hold the position of legislative chaplain.

08.0203.2502 SUMMARY OF COMMENTS (2)

In support of the changes. Also, would like to see Rebecca Brown Mitchell added to the 4th grade social studies standards.

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 20, 2025

SUBJECT

Pending Rule – Docket No. 08-0203-2501, Rules Governing Thoroughness

REFERENCE

June 2024	Board approved temporary rule, Docket 08-0203-2402, updating content standard approval dates.
August 2024	Board approved temporary rule, Docket 08-0203-2403, updating Special Education Manual and approval dates.
August 2024	Board Approved Proposed rule, Docket 08-0203-2401, updating incorporated by reference, graduation requirements, and removal of special education sections.
November 2024	Board Approved Pending rule, Docket 08-0203-2401, updating incorporated by reference, graduation requirements, and removal of special education sections.
August 2025	Board Approved Proposed rule, Docket 08-0203-2501, updating incorporated by reference, Special Education Manual.

APPLICABLE STATUTE, RULE, OR POLICY

Idaho Administrative Code, IDAPA 08.02.03, Rules Governing Thoroughness
Idaho Code Title 67, Chapter 52, Idaho Administrative Procedures Act

BACKGROUND/DISCUSSION

Administrative rules promulgated under the Board's authority include IDAPA 08, IDAPA 55, and IDAPA 47.

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). In 2024, HB563 amended Section 67-5292, Idaho Code, to establish an ongoing five-year cycle for review of all administrative rules.

The Board approved the proposed rule in August 2025. Subsequently, the rule was published in the October 1, 2025, Administrative Bulletin of Negotiated Rulemaking, Vol. 25-10. This publication marks the opening of a formal 21-day public comment period. The public comment period closed on October 22, 2025. A total of twenty-one (21) comments were received regarding the incorporated by reference SPED manual updates to 08-0203-2501.

Board staff received majority of comments focused on evaluation timelines, with most urging the Board to replace the proposed 60-calendar-day rule with a 45-school-day timeline. Commenters said this would be more practical, especially for

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 20, 2025

rural or four-day-week districts, prevent evaluation delays during holidays and summer, and align with Idaho's previous rule and other states' practices.

Additional feedback included requests for clearer guidance on charter school and dual enrollment procedures, and technical suggestions about glossary terms, paraprofessional qualifications, foster parent definitions, requesting comprehensive guidance for serving students in juvenile facilities addressing more than evaluation and instruction, and homeschool provisions. A full list of all comments can be found in Attachment 5, Public Comment Summary.

Updates from the proposed rule to the pending rule are to the Incorporated by reference SPED Manual document. The updates are for all instances of "60 calendar days" to "45 school days" where the manual discusses the amount of time a school has to determine eligibility for special education services after receiving consent for an evaluation (updates to IBR pages 96, 127-130, and 222-223).

The final proposed Incorporated by reference rule language is presented as Attachment 3, Pending Rule. Changes made after the Board approved the proposed text in August are highlighted in yellow for easy identification.

IMPACT

If the Board approves the pending rule, it will move forward for review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code.

All approved pending rules become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date. A corresponding temporary rule will expire at sine die. Therefore, it is requested that this rule be effective at sine die of the 2025 legislative session.

ATTACHMENTS

- Attachment 1 – Notice of Pending Rule Docket No. 08-0203-2501
- Attachment 2 – Pending Rule Docket No. 08-0203-2501
- Attachment 3 – Pending Rule IBR document SPED Manual revised redline
- Attachment 4 – Public Comment Summary

BOARD STAFF COMMENTS AND RECOMMENDATIONS

Comments were received regarding the special education manual incorporated by reference document in the proposed rule. Edits made as a result of feedback are highlighted in yellow in Attachment 2.

Staff recommends approval.

**PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 20, 2025**

BOARD ACTION

I move to approve pending rule – Docket 08-0203-2501, as submitted in Attachment 2.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

IDAPA 08 – STATE BOARD OF EDUCATION**08.02.03 – RULES GOVERNING THOROUGHNESS****DOCKET NO. 08-0203-2501****NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with [Section 67-5224\(2\)\(c\)](#), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with [Section 67-5224](#), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to [Section 33-105](#), [33-116](#), [33-118](#), and [33-1612](#), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The proposed change will edit the incorporated by reference Special Education Manual document, subsection 004.04. The incorporated by reference document was revised and approved in the previous years, 2024-25, rulemaking cycle. The section of the manual updated was the Specific Learning Disability (SLD) section, following an inquiry from the U.S. Department of Education's Office of Special Education Programs (OSEP) in 2023. Concurrently, the Idaho Department of Education underwent a Differentiated Monitoring and Support 2.0 (DMS 2.0) review by OSEP, which identified additional areas of concern. However, due to timing and procedural requirements for public input under the Individuals with Disabilities Education Act (IDEA), as well as rulemaking timelines set by the Department of Financial Management (DFM) and the Office of the State Board of Education (OSBE), these concerns could not be addressed in the same revision as the SLD update that was completed in the 2024-25 rulemaking cycle.

2025-26 manual updates and clarifications include: specific learning disability (SLD) eligibility requirements; guidance related to charter school, private school, and home-school students; and guidance related to graduation requirements and discipline.

Updates from the proposed rule to the pending rule are to the Incorporated by reference SPED Manual document. The updates are for all instances of “60 calendar days” to “45 school days” where the manual discusses the amount of time a school has to determine eligibility for special education services after receiving consent for an evaluation. (Updates to IBR pages 96, 127-130, and 222-223)

The text of the pending rule has been amended in accordance with [Section 67-5227](#), Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 1, 2025, Idaho Administrative Bulletin, [Volume 25-10, pages 168-170](#).

FEE SUMMARY: Pursuant to [Section 67-5224\(2\)\(d\)](#), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: NA

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year: NA

ASSISTANCE WITH TECHNICAL QUESTIONS: For assistance with technical questions concerning this pending rule, contact Nicholas Wagner at rules@edu.idaho.gov or (208)-488-7586).

DATED this 21st day of November, 2025.

Nicholas Wagner, Agency Rules Coordinator Idaho State Board of Education
650 W State St. PO Box 83720
Boise, ID 83720-0037
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**STATE BOARD OF EDUCATION
Rules Governing Thoroughness**

**Docket No. 08-0203-2501
Proposed Rulemaking**

08.02.03 – RULES GOVERNING THOROUGHNESS

000. LEGAL AUTHORITY.

All rules in this Thoroughness chapter (IDAPA 08.02.03) are promulgated pursuant to the authority of the State Board of Education under Article IX, Section 2 of the Idaho Constitution and under Sections 33-116, 33-118, and 33-1612, Idaho Code. Specific statutory references for particular rules are also noted as additional authority where appropriate. (3-15-22) ()

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated into this rule: (3-15-22)

01. The Idaho Content Standards. The Idaho Content Standards as adopted by the State Board of Education. Individual subject content standards are adopted in various years in relation to the curricular materials adoption schedule. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov/board-policies-rules/board-rules/documents-incorporated-by-reference-or-rule/>. (3-15-22)

a. Arts and Humanities Categories: (3-15-22)

i. Dance, as revised and adopted on June 12, 2024; (7-1-25)

ii. Interdisciplinary Humanities, as revised and adopted on June 12, 2024; (7-1-25)

iii. Media Arts, as adopted on June 12, 2024. (7-1-25)

iv. Music, as revised and adopted on June 12, 2024; (7-1-25)

v. Theater, as revised and adopted on June 12, 2024; (7-1-25)

vi. Visual Arts, as revised and adopted on June 12, 2024; (7-1-25)

vii. World languages, as revised and adopted on June 12, 2024. (7-1-25)

b. Computer Science, adopted on June 12, 2024. (7-1-25)

c. Driver Education, as revised and adopted on June 12, 2024. (7-1-25)

d. Health, as revised and adopted on August 24, 2022. (4-6-23)

e. Information and Communication Technology, as revised and adopted on June 12, 2024. (7-1-25)

f. Physical Education, as revised and adopted on August 24, 2022. (4-6-23)

g. Social Studies, as revised and adopted on June 12, 2024. [**note – Grade 4 Social Studies and Grade 6-12 U.S. World History 1 remain as adopted on November 28, 2016.*] (7-1-25)

h. College and Career Readiness Competencies adopted on June 15, 2017. (3-15-22)

02. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Deaf or Hard of Hearing. As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov/board-policies-rules/board-rules/documents-incorporated-by-reference-or-rule/>. (3-15-22)

STATE BOARD OF EDUCATION
Rules Governing Thoroughness**Docket No. 08-0203-2501**
Proposed Rulemaking

03. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Blind or Visually Impaired. As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov/board-policies-rules/board-rules/documents-incorporated-by-reference-or-rule/>. (3-15-22)

04. The Idaho Special Education Manual. The Idaho Special Education Manual as adopted by the State Board of Education on ~~November 21, 2024~~ ~~August~~ **November 20, 2025**. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov/board-policies-rules/board-rules/documents-incorporated-by-reference-or-rule/>. ~~(7-1-25)~~ **()**

(BREAK IN CONTINUITY OF SECTIONS)

DEPARTMENT OF SPECIAL EDUCATION

Special Education Manual ~~2024~~ 2025

Adopted by the State Board of Education

~~November 21, 2024~~ ~~August 20, 2025~~ ~~November 20,~~
2025

IDAPA 08.02.03.004



IDAHO DEPARTMENT OF EDUCATION
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~~CREATED 11/21/2024~~
~~CREATED 08/20/2025~~

Nondiscrimination Clause

Federal law prohibits discrimination on the basis of race, color, religion, sex, national origin, age, or disability in any educational programs or activities receiving federal financial assistance. (Title VI and VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; and the Americans with Disabilities Act of 1990.)

It is the policy of the Idaho ~~State~~ Department of Education not to discriminate in any educational programs or activities, or in employment practices.

Inquiries regarding compliance with this nondiscriminatory policy may be directed to the State Superintendent of Public Instruction, P.O. Box 83720, Boise, ID 83720-0027, (208) 332-6800, or to the Director, Office of Civil Rights, Department of Education, Washington, D.C.

Idaho Special Education Manual

The policies and procedures contained in this Idaho Special Education Manual have been developed by the ~~State Department of Education (SDE)~~ Idaho Department of Education and offered to local education agencies (LEAs) for adoption. This Manual has been ~~approved~~ adopted by the State Board of Education, meets the IDEA eligibility requirement of 20 U.S.C. Section 1412, and is consistent with state and federal laws, rules, regulations, and legal requirements.

In the case of any conflict between Idaho Administrative Code (IDAPA) and the Individuals with Disabilities Education Act (IDEA), the IDEA shall supersede the IDAPA, and IDAPA shall supersede this Manual.

This document was developed and printed by the Idaho ~~State~~ Department of Education using grant funds from the Individuals with Disabilities Education Act. ~~PR/Award #H02740800884~~

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ACRONYMS AND ABBREVIATIONS

Section 504 Section 504 of the Rehabilitation Act of 1973

AA Alternate Assessment

ADA Americans with Disabilities Act

~~A.D.A.~~ ~~Average Daily Attendance~~

~~ADD~~ ~~Attention Deficit Disorder~~

ADHD Attention Deficit Hyperactivity Disorder

AT Assistive Technology

BIP Behavioral Intervention Plan

~~CALP~~ ~~Cognitive Academic Language Proficiency~~

CAP Corrective Action Plan

CEIS Comprehensive Early Intervening Services

C.F.R./CFR Code of Federal Regulations

CIP Continuous Improvement Plan

DD Developmental Delay

DHW Department of Health and Welfare

DJC Department of Juvenile Corrections

DR	Dispute Resolution
EBD	Emotional Behavioral Disorder
ECSE	Early Childhood Special Education
EL	English Learner
ESEA	Elementary and Secondary Education Act
ESSA	Every Student Succeeds Act
ESY	Extended School Year
FAPE	Free and Appropriate Public Education
FBA	Functional Behavioral Assessment
FERPA	Family Educational Rights and Privacy Act
GED	General Education Development
IAES	Interim Alternative Educational Setting
IBI	Intensive Behavioral Interventions
IDAPA	Idaho Administrative Procedures Act
IDEA	Individuals with Disabilities Education Act
IDELR	Individuals with Disabilities Education Law Report
IEE	Independent Educational Evaluation

IEP	Individual Education Program
IFSP	Individual Family Services Plan
IPUL	Idaho Parents Unlimited, Inc.
IQ	Intelligence Quotient
ISAT	Idaho Standards Achievement Test
ITP	Infant/Toddler Program
JDC	Juvenile Detention Center
LEA	Local Education Agency
LEP	Limited English Proficiency
LI	Language Impairment
LD	Learning Disability
LRE	Least Restrictive Environment
MTSS	Multi-Tiered System of Support
OCR	Office of Civil Rights
OHI	Other Health Impaired -Impairment
OI	Orthopedic Impairment
OT	Occupational Therapy

PBIS	Positive Behavioral Interventions and Supports
PBS	Positive Behavioral Behavior Supports
PII	Personally Identifiable Information
PLAAFP	Present Levels of Academic Achievement and Functional Performance (Also known as PLOP for Present Levels of Performance)
PLOP	Present Levels of Performance (Also known as PLAAFP for Present Levels of Academic Achievement and Functional Performance)
PT	Physical Therapy
PTI	Parent Training and Information Center
RTI	Response to Intervention
SCID	Significant Cognitive Impairment Disabilities
SD	Standard Deviation
SDE	State Department of Education
SEA	State Education Agency
SEAP	Special Education Advisory Panel
SI	Speech Impairment
SLD	Specific Learning Disability

SP Services Plan

SS Standard Score

TBI Traumatic Brain Injury

~~VI Visual Impairment~~

~~WIOA Workforce Innovation and Opportunity Act~~

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GLOSSARY

Academic achievement. A student’s level of performance in basic school subjects, measured either formally or informally.

Accommodation. Changes in the curriculum, instruction, or testing format or procedures that enable students with disabilities to participate in a way that allows them to demonstrate their abilities rather than disabilities. Accommodations are generally considered to include assistive technology as well as changes in presentation, response, timing, scheduling, and settings that do not fundamentally alter the requirements. Accommodations ~~do~~ **must** not invalidate assessment results and do not fundamentally alter ~~the~~ **grade-level standard** requirements. ~~(or course expectations).~~

Adaptation. Changes to curriculum, instruction, or assessments that fundamentally alter ~~the~~ **grade-level** requirements **of the Idaho Content Standards**; but ~~that~~ enable a student with a disability that significantly impacts performance an opportunity to participate. Adaptations include strategies such as reading the reading portion of a test, using spelling/grammar check for language arts assessments, and substituting out-of-level testing. Adaptations fundamentally alter requirements and invalidate assessment results and provide non-comparable results.

Adaptive behavior. Behavior that displays an age-appropriate level of self-sufficiency and social responsibility which includes the following areas: communication, self-care, home living, social/interpersonal skills, use of community resources, direction, functional academic skills, work, leisure, health, or safety.

Administrative hearing. A formal legal proceeding conducted by a government agency or an appointed official (called a hearing officer) to resolve disputes involving rules, regulations, or laws overseen by that agency.

Adult student. A student with a disability, age eighteen (18) or older, to whom rights have transferred under the IDEA and Idaho Code, and who has not been deemed legally incompetent by a court or deemed ineligible to give informed consent by the IEP team.

Adverse ~~effect~~ **Impact** (adverse **impact** ~~effect~~). A determination made by the evaluation team that the student’s progress is impeded by the disability to the extent that their educational performance is significantly and consistently below the level of ~~similar-age~~ **similar-age, grade-level** peers, preventing the student from benefitting from general education. ~~The phrases “adverse impact” and “adverse effect” are used interchangeably in this Manual and have the same meaning. See also “educational~~ **Educational** performance.”

~~**Adult student.** A student with a disability, age eighteen (18) or older, to whom rights have transferred under the IDEA and Idaho Code, and who has not been deemed legally incompetent by a court or deemed ineligible to give informed consent by the IEP team.~~

Age-appropriate activities. Activities that typically-developing children of the same age would be performing or would have achieved.

Age of majority. The age at which, by law, a child assumes the responsibilities of an adult. In Idaho, the age of majority is eighteen (18).

~~**Aggregated data.** Information that is considered as a whole. In this Manual, the term refers to collective data on all students, including students with disabilities.~~

Alternate assessment. An academic assessment based on alternate academic achievement standards that have been reduced in depth, breadth, and complexity from the ~~Idaho Content Standards~~ general education assessment. The alternate assessment (AA) is intended only for those students with the most significant cognitive ~~impairments~~ disabilities, representing about 1% of the total student population.

Alternative school. ~~A public-school placement option that may be utilized for students who are not succeeding in the traditional school environment but may benefit through the use of modified curriculum or flexible programming.~~ A public-school option that has been established to provide instructional courses and programs designed to serve eligible at-risk youth so they can earn a high school diploma.

Americans with Disabilities Act (ADA) of 1990. A federal law prohibiting discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications. An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment. The ADA does not specifically name all of the impairments that are covered.

Articulation. The ability to speak distinctly and connectedly.

Articulation disorder. Incorrect productions of speech sounds, including omissions, distortions, substitutions and/or additions that may interfere with intelligibility.

~~**American with Disabilities Act (ADA) of 1990.** A federal law prohibiting discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications. An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment. The ADA does not specifically name all of the impairments that are covered.~~

Assessment. The formal or informal process of systematically observing, gathering, and recording credible information to help answer evaluation questions and make decisions. It is an integral component of the evaluation process. A test is one method of obtaining valid and reliable information within the assessment process. Assessment data may also include observations; interviews; medical reports; data regarding the effects of general education accommodations, adaptations, and interventions; and other formal or informal data.

Assistive technology device. Any item, piece of equipment, or product system whether acquired commercially, off the shelf, modified, or customized that is used to increase, maintain, or

improve the functional capabilities of a student with a disability. Excludes surgically implanted medical devices.

Assistive technology service. Any service that directly assists a student with a disability with the assessment, selection, acquisition, or use of an assistive technology device. The term includes the evaluation of the need of the student; purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices; selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing devices; coordinating and using other therapies, interventions, or services with existing education and rehabilitation plans and programs; training or technical assistance for a student and/or family; and training or technical assistance for professionals, employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of the student.

~~**Attention deficit disorder (ADD).** A biologically based mental disorder that has these typical characteristics: short attention span; distractive behavior; difficulty following directions and staying on task; and an inability to focus behavior. The disorder compromises many skills needed for academic success, including starting, following through with, and completing tasks; moving from task to task; and following directions.~~

Attention deficit hyperactivity disorder (ADHD). A ~~biologically based mental disorder in which a person has inappropriate degrees of inattention, impulsiveness and hyperactivity.~~ A developmental disorder characterized by an ongoing pattern of inattention, hyperactivity, or impulsivity.

Audiologist. A licensed health care professional who diagnoses and supports management of hearing loss, counseling to auditory needs across environments, and fitting of hearing technology.

Audiology. A related service that includes identification of students with hearing loss, determination of the range, nature, and degree of hearing loss, provision of habilitative activities, creation and administration of programs for prevention of hearing loss, counseling and guidance to students, parents and teachers regarding hearing loss, and the determination of student need for group and individual amplification, selecting and fitting an appropriate aid, and evaluating effectiveness of amplification.

Autism. A disability category in which a developmental disability, generally evident before age three (3), significantly affects verbal or nonverbal communication skills and social interactions and adversely affects educational performance. Other characteristics often associated with autism include engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

Basic reading skills. For the purpose of specific learning disability eligibility, includes sight word recognition, phonics, and word analysis. Essential skills include identification of individual sounds and the ability to manipulate them, identification of printed letters and sounds associated with letters, and decoding of written language.

Behavioral intervention plan (BIP). A plan comprising practical and specific strategies designed to increase or reduce a definable behavior. These strategies address preventative techniques, teaching to skill deficits by identifying replacement behaviors based on the function of the behavior, ~~how-to~~ and responding effectively to either reinforced desired behavior or re-teach in response to challenging behaviors. An effective BIP also includes a Crisis Plan when needed. ~~or resolve behaviors, and crisis management, if necessary.~~

Benchmark. A major milestone which describes the progress the student is expected to marked toward annual goals within a specified period of time. Similar to an objective.

Blindness or low vision. An IDEA disability category characterized by low vision that, even with correction, adversely affects a student's educational performance. The term includes partial sight, which refers to the ability to use vision as one channel of learning if educational materials are adapted, and blindness.

Braille. A tactile system of reading and writing, used by students who are blind or visually impaired, with an official code composed of Braille characters or cells that consist of various patterns of raised dots corresponding to alphabetic letters, punctuation marks and other symbols.

Business day. A workday (Monday through Friday) except for federal and state holidays, unless specifically included.

Calendar day. Used interchangeably with day unless otherwise indicated as a business day or a school day.

Case manager. A member of the evaluation and/or IEP team (usually the special education teacher) who is designated to perform administrative functions for the team, including: (1) setting up meetings; (2) ensuring appropriate forms are completed; (3) ensuring timelines are met; and (4) includes the responsibility of coordinating and overseeing the implementation of the IEP.

CCEIS. See "Comprehensive coordinated early intervening services."

CEIS. See "Voluntary coordinated early intervening services."

Change of placement. A change in educational placement relates to whether the student is moved from one type of educational program ~~—i.e., regular class—~~ to another type ~~—i.e., home instruction. Or it~~ It may also occur when there is a significant change in the student's educational program even if the student remains in the same setting.

Change of placement for disciplinary reasons. A removal from the current educational placement for more than ten (10) consecutive school days or a series of removals that constitute a pattern when they total more than ten (10) school days in a school year. Factors such as the length of the removal, the proximity of the removals to one another, the total amount of time the student is removed ~~are indicators of a pattern~~, and whether the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals are indicators of a pattern.

Charter school LEA. A publicly funded, nonprofit, nonsectarian public school that operates as its own local education agency (LEA) or district. Charter LEAs may be authorized by the local school district or the Idaho Public Charter School Commission. Charter LEAs are required to provide services in accordance with IDEA and Section 504 of the [Rehabilitation Act of 1973 and the ADA](#).

Charter school within a district. A publicly funded, nonprofit, nonsectarian public school that is created by a formal agreement (charter) between the charter board of directors and the board of trustees of the local school district and operates independently within the district. It is governed by the conditions of its approved charter, performance certificate, and federal and state laws. It is the responsibility of the local district to ensure that students attending such charter schools receive appropriate services as required by IDEA and Section 504 of the [Rehabilitation Act of 1973 and the ADA](#).

Chemical restraint. Using drugs or medication to control behavior; not including those prescribed by and administered in accordance with the directions of a qualified health professional.

Child. An individual who has not attained age eighteen (18).

Child count. For purposes of the annual report required under IDEA, the State must count and report the number of ~~children~~ students with disabilities receiving special education and related services on any date between October 1 and December 1 of each year.

Child find. A process to locate, identify, and evaluate individuals ages three (3) ~~through the day before the student's twenty-second (22nd) birthday to twenty-one (21)~~ who are suspected of having a disability and in need of special education.

Civil action. A judicial action that any party who is aggrieved by the final decision of a due process hearing officer may bring in either a federal district court or a state court of competent jurisdiction (as designated by Idaho law).

~~**Cognitive academic language proficiency (CALP).** CALP refers to language used during formal academic instruction and learning. CALP skills include listening, speaking, reading, and writing about subject area content material, and are essential to school success. It may take five to seven years for an English language learner to develop CALP.~~

Compensatory education or compensatory services. Educational services or remedies which are above and beyond those normally due a student under the State's education law. The principle is acknowledged by most courts that have considered the issue to be an appropriate equitable remedy when a student has been denied free appropriate public education. [Educational services](#) ~~Services~~ that would put the student in the same position had they not been denied a FAPE.

Complaint. (State complaint) A formal, written, and signed statement submitted to the Idaho ~~State~~ Department of Education by an individual or organization that contains one or more

allegations and the facts on which the statement is based that a district or agency has violated a requirement of IDEA within the last year (365 days).

Comprehensive coordinated early intervening services (CCEIS). Mandated services funded by a portion of IDEA Part B funds and designed to address significant disproportionality in special education by providing early support and interventions to students ages three (3) through grade twelve (12), particularly those who need additional academic or behavioral support, but who are not yet identified as needing special education.

Concurrent deficits. The presence of multiple challenges or limitations that occur simultaneously in both adaptive functioning and intellectual functioning to approximately the same degree. As it relates to the eligibility criteria for Intellectual Disability, concurrent deficits are two (2) standard deviations below the mean plus or minus the standard error of measurement at the ninety-five (95) percent confidence level.

~~**Coordinated early intervening services (CEIS).** Services for students (K-12) who need additional academic and behavioral support to succeed in a general education environment. These students have not been identified as having a disability under the IDEA.~~

Consensus. Following the opportunity for each member to provide input and gain clarification, the resulting outcome where each member agrees to support the decision of the group. Consensus is both the **commitment** ~~general agreement~~ to support the decision, and the process of reaching such agreement to support the decision.

Consent. Voluntary, written approval of a proposed activity, as indicated by a parent/adult student signature. The parent/adult student must be fully informed of all relevant information in his or her native language or other mode of communication and must understand all information relevant to the activity to make a rational decision.

~~**Conservator.** A person appointed by the court to handle financial decisions for a person who is incapacitated or debilitated. In Idaho the conservator has all of the powers conferred in Idaho Statute 15-5-424 and any additional powers conferred by law on trustees in this state. In addition, a conservator of the estate of an unmarried minor under the age of eighteen (18) years, as to whom no one has parental rights, has the duties and powers of a guardian of a minor described in section 15-5-209 of this code until the minor attains the age of eighteen (18) or marries, but the parental rights so conferred on a conservator do not preclude appointment of a guardian as provided by part 2 of this chapter, Idaho Statute 15-5-424.~~

Controlled substance. Any drug so designated by law whose availability is restricted; i.e., so designated by federal Controlled Substances Acts. Included in such classifications are narcotics, stimulants, depressants, hallucinogens, and marijuana. ([See Schedule I, II, III, IV or V in section (c) of the Controlled Substances Act (21 U.S.C. 812(c).])

Core academic subjects. These include English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography under the ESEA.

Corporal punishment. Knowingly and purposely inflicting physical pain on a student as a disciplinary measure.

~~**Core Content Connectors.** Alternate academic achievement standards in English/Language Art and Mathematics aligned with the Idaho Content Standards, which have been reduced in depth and complexity. The Idaho alternate assessment in English/Language Arts and Mathematics are based on these standards.~~

Corrective action plan (CAP). A plan that orders an ~~district~~ LEA as a result of an IDEA complaint to take corrective actions to resolve ~~violations of IDEA legal deficiency~~ as found by the Idaho Department of Education ~~SDE~~.

Counseling services. A related service which include services provided by qualified social workers, psychologists, guidance counselors, and other qualified personnel, including personnel qualified to provide services exclusively in a school setting.

Critical life skill. Skills that lead to independent functioning. Development of these skills can lead to reduced dependency on future caretakers and enhance students' integration with individuals without disabilities. Skills may include such things as toileting, feeding, mobility, communication, dressing, self-help, and social/emotional functioning.

Dangerous weapon. A weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 ½ inches in length.

Data-based decision making. The collecting of information that can be charted or graphed to document performance over time followed by an analysis of the information to determine needed changes in instruction, policies, programs, or procedures.

Day. Refers to a calendar day unless otherwise indicated as a business or school day.

Deaf-blindness. An IDEA disability category in which a student demonstrates hearing and ~~low vision~~ ~~visual impairments~~, and where the combination of these two disabilities causes such severe communication and other developmental and educational needs that the student cannot be accommodated with special education services designed solely for students with deafness or blindness.

Deaf or Hard of Hearing. A ~~child with~~ ~~condition~~ of hearing loss, whether permanent or fluctuating, that impairs the access, comprehension, and/or use of linguistic information through hearing, with or without amplification, and that adversely affects a child's educational performance.

Detained youth. Anyone aged three (3) through ~~the day before the person's twenty-second (22nd) birthday~~ ~~twenty-one (21)~~ who is being held for a crime regardless of whether or not that person has appeared before the court.

Developmental achievement. ~~Gains a student makes which follow the pedagogic theory that all children learn in the same basic way and in the same sequence, although at different rates.~~

Developmental delay. An IDEA disability category used only for students ages three (3) through nine (9) for whom a significant delay exists in one or more of the following ~~skill~~ broad developmental areas: cognitive development, physical development, communication development, social or emotional development, or adaptive development. ~~receptive/expressive language; cognitive abilities; gross/fine motor functioning; social/emotional development; or self-help/adaptive functioning.~~ The use of this category is optional for ~~district~~ LEAs.

Disaggregated data. Information that is reported and/or considered separately on the basis of a particular characteristic. ~~In this Manual, the term refers to data on special education students as a group that are reported and/or considered separately from the same data on all students in a school, district, or state.~~

Discipline. Actions taken in response to a student's violation of the student ~~code~~ code of conduct ~~code~~.

Disclosure. The access to or the release, transfer, or other communication of education records or personally identifiable information contained in these records by oral, written, electronic, or other means.

Disproportionality. A disparity or inequality. ~~In this Manual, the~~ The term refers to a statistical range of data where students of a specific race or ethnicity are identified in either greater or fewer numbers than expected when compared to the representation of that race or ethnicity within the general school population. The areas addressed in the IDEA are: (1) identification as a student with a disability; (2) identification of a student with a specific category of disability; ~~and~~ (3) placement in a particular educational setting; and (4) the incidence, duration of any type of disciplinary actions, including suspensions and expulsions.

District. A local educational agency (LEA) inclusive of the following terms: a local district, a state authorized charter school, a state operated program, and a traditional school. See ~~also~~ "LEA."

~~Dropout~~ Drop out. ~~A student who has~~ To voluntarily ~~left~~ leave an education system before completion of ~~state~~ graduation requirements. A student who has dropped out ~~and~~ is not known to be enrolled in any other educational program.

Dual enrollment. ~~A child of school age who is enrolled in a nonpublic school (including a homeschool) or a public charter school and enrolled in a public school to participate in public school programs and activities, Idaho Statue 33-203.~~ Occurs when a child of school age who is enrolled in a private school or public charter school or is homeschooled requests to also enroll in a traditional school district (public non-charter school) or another public charter school in order to participate in public school programs and activities. See ~~also~~ "nonpublic school" and "nonpublic student."

Due process hearing. An administrative hearing conducted by an ~~SDE~~ Idaho Department of Education-appointed hearing officer to resolve disputes on any matter related to identification, evaluation, educational placement, or the provision of a free appropriate public education under the IDEA.

Dyslexia. A type of disability recognized by the IDEA as a type of SLD. According to the International Dyslexia Association, dyslexia is characterized by “difficulties with accurate and/or fluent word recognition and by poor spelling and decoding abilities. These difficulties typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction.” See “Specific learning disability.”

Early Learning Guidelines (eGuidelines). See “Idaho Early Learning Guidelines (eGuidelines).”

~~**Educational performance.** A student’s educational performance in achievement, developmental, and/or functional skills.~~

Education record. A student’s record containing personally identifiable information maintained by an educational agency or institution, or by a party acting for the agency or institution, which may include, but is not limited to print, handwriting, computer media, video or audio tape, film, microfilm, and microfiche, but is not within the exceptions set out in the Family Educational Rights and Privacy Act (FERPA). The documents in the education record used to determine current eligibility and monitor current progress are considered part of the education record and are maintained. ~~After the required retention period, items~~ ~~Items~~ in the educational record that are no longer used, or have been summarized, may be removed from the educational record after written parental notification.

Educational performance. A student’s educational performance in academic achievement, developmental, social, emotional, behavioral, and/or functional skills.

Educational services. Required services provided to a student which includes: the opportunity to continue to participate appropriately in general education instruction and curriculum, services outlined in the student’s IEP, and participation with nondisabled peers to the same extent as the student participates with nondisabled peers in the current placement.

Educational services agency, other public institution or agencies. (1) An educational service agency, as defined in 34 CFR §300.12; and (2) Any other public institution or agency having administrative control and direction of a public elementary school or secondary school, including a public nonprofit charter school that is established as an LEA under State law.

Elementary school. ~~The term “elementary school” means a~~ A nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law, 34 CFR §300.13. An elementary school

includes a grade configuration of grades one (1) through eight (8) inclusive, or any combination thereof, Section 33-116, Idaho Code.

~~**Eligibility/evaluation team.** A group of people, including the parent/adult student, charged with the responsibility to make decisions regarding evaluation, assessments, and eligibility. This team includes the same membership as the IEP team (although not necessarily the same individuals) and other qualified professionals, as appropriate.~~

Emotional behavioral disorder (EBD). An IDEA disability category in which a student has a condition exhibiting one or more of five behavioral or emotional characteristics over a long period of time, and to a marked degree, that adversely affects educational performance. The term *does not* include students who are socially maladjusted unless it is determined they have an emotional behavioral disorder. The term emotional behavioral disorder *does* include students who are diagnosed with schizophrenia.

English Learner (EL). When used with respect to an individual, this means an individual

- A) who is aged three (3) through the day before the twenty-second (22nd) birthday semester of school in which the student attains the age of twenty-one (21) years;
- B) who is enrolled or preparing to enroll in elementary or secondary school;
- C) (i) who was not born in the United States or whose native language is a language other than English; or
(ii) who is a Native American or Alaska Native, or a native resident of the outlying areas; and who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or
(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and
- D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the him or her:
 - a. the ability to meet the State's "proficient" level of achievement on State assessments;
 - b. the ability to successfully achieve in classrooms where the language of instruction is English; or
 - c. the opportunity to participate fully in society.

Essential components of reading instruction. The term means explicit and systematic instruction in (1) phonemic awareness, (2) phonics, (3) vocabulary development, (4) reading fluency, including oral reading skills, and (5) reading comprehension strategies.

Evaluation. A term that means using all required procedures to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

Evaluation team. A group of people, including the parent/adult student, charged with the responsibility to make decisions regarding evaluation, assessments, and eligibility. This team includes the same membership as the IEP team (although not necessarily the same individuals) and other qualified professionals, as appropriate.

Expedited due process hearing. ~~An administrative hearing conducted by an SDE-appointed hearing officer to resolve disputes concerning discipline for which shortened timelines are in effect in accordance with the IDEA.~~ An administrative hearing with an expedited timeline that is only available to resolve disputes concerning discipline and/or placement related to discipline.

Expulsion. Removal of a student from school for an extended period of time. For general education students, services usually cease during an expulsion.

Extended school year (ESY). A program to provide special education and related services to an eligible student with a disability beyond the conventional number of instructional days in a school year and at no cost to the parents. An ESY program must be based on an IEP team decision and meet Idaho standards.

Extracurricular activities. Programs sponsored by an ~~district~~ LEA that are not part of the required curriculum but are offered to further the interests and abilities of students, e.g., athletics, special interest groups, or clubs sponsored by the LEA.

~~FAPE.~~ (See “Free appropriate public education.”)

~~FERPA.~~ (See “Family Educational Rights and Privacy Act.”)

Facilitation. A voluntary process during which a neutral and impartial individual, contracted by the ~~SDE~~ Idaho Department of Education, is appointed to conduct an IEP team or other special education related meeting.

Family Educational Rights and Privacy Act (FERPA). A federal law protecting the privacy of students and parents by mandating that personally identifiable information about a student contained in education records must be kept confidential unless otherwise provided by law. FERPA also contains provisions for access to records by parents, students, staff, and others.

~~FAPE.~~ See “Free appropriate public education.”

Fluency disorder. Stoppages in the flow of speech that are abnormally frequent and/or abnormally long. These interludes take the form of repetitions of sounds, syllables, or single syllable words; prolongations of sounds; or blockages of airflow and/or voicing in speech.

~~FERPA.~~ See “Family Educational Rights and Privacy Act.”

Free Appropriate Public Education (FAPE). A basic IDEA requirement which states that special education and related services are provided at public expense (free); in conformity with an appropriately developed IEP (appropriate); under public supervision and direction (public); and include preschool, elementary, and secondary education that meets the education standards, regulations, and administrative policies and procedures issued by the ~~Idaho State~~ Department of Education (education).

Functional achievement and performance. Gains made by a student which include programming in community living, reading, communication, self-care, social skills, domestic maintenance, recreation, and employment or vocational skills. Also called independent living skills.

Functional behavioral assessment (FBA). A systematic process for defining problem behavior and gathering medical, environmental, social, and instructional information that can be used to hypothesize about the function of student behavior.

General education curriculum. The curriculum ~~that is~~ designed for all students, usually consisting of ~~a common~~ core ~~of~~ subjects and curriculum areas adopted by a district, ~~that are~~ aligned to the Idaho ~~Achievement~~ Content Standards or district standards. ~~The general education curriculum is defined by either the Idaho Achievement Standards or the district content standards if they are as rigorous.~~

General education instruction. Grade-level, standards-aligned instruction in the regular education setting provided by qualified personnel.

General education interventions. Educational interventions designed to address ~~the students~~ student needs using tiered systems of support in general education ~~the core~~ and supplemental interventions. Such interventions may include whole-school approaches, scientifically based programs, and positive behavior supports, including accommodations and instructional interventions based on an individual student's skill deficit(s), designed to remedy, improve, or eliminate the skill deficit and conducted in the general education environment. ~~These interventions may also include professional development for teachers and other staff to enable such personnel to deliver scientifically based literacy instruction and/or instruction on the use of adaptive and instructional software.~~

Goal. A measurable statement of desired progress. In an IEP, annual goals must include academic and functional goals designed to meet a ~~child's~~ student's needs that result from his or her disability, enable the ~~child~~ student to be involved in and make progress in the general curriculum, and meet the ~~child's~~ student's other educational needs that result from the ~~child's~~ student's disability.

Graduation. The point in time when a student meets the ~~district~~ LEA and State requirements for receipt of an Idaho high school diploma.

Graduation meeting adapted requirements. The point in time when a student meets the graduation requirements outlined in the IEP but does not meet LEA and State requirements for graduation. The student is considered to have graduated by meeting adapted requirements and maintains the right to FAPE through the ~~day before the twenty-second (22nd) birthday~~ semester of school in which the student attains the age of twenty-one (21) years as long as other eligibility requirements are met.

Graduation meeting LEA and state requirements. The point in time when a student has met LEA and State requirements that apply to all students with or without accommodations in the classroom.

Guardianship. A judicial determination under which a competent adult has the legal right and duty to deal with problems, make decisions, and give consent for an adult with a disability (at least eighteen (18) years of age) who cannot act on his or her own behalf. The court will specify the nature and scope of the guardian's authority.

Health services. See "School health services."

Hearing officer. An individual appointed to conduct an impartial due process hearing procedures consistent with the IDEA.

High school. A component of the secondary school level, typically encompassing grades nine (9) through twelve (12). ~~Idaho Statute 33-119 defines secondary school as grades seven (7) through twelve (12) inclusive of any combination thereof.~~ See "secondary school."

Homebound student. A student whose IEP team determines the ~~child's~~ student's home is the least restrictive environment.

Homeless children and youth. Children and youth who lack a fixed, regular, and adequate nighttime residence as defined in the McKinney-Vento Homeless Assistance Act.

Homeschool. An education program delivered by parents who have decided to provide instruction in the home and not in a public or private school. A homeschool is a nonpublic school, but is not considered a private school. A virtual public school is not a homeschool.

~~Homeschooled students~~ **Homeschool student.** A ~~homeschooled~~ student ~~is one~~ whose parents have decided to provide an educational program in the home with instruction provided by the parents. A homeschool student is considered a nonpublic school student, but is not considered a private school student. A student who is enrolled in a virtual public school is not considered a homeschooled student for the duration that they attend that virtual public school.

Honig Injunction. A court order to remove a special education student from school or the current educational placement due to factors of dangerousness. ~~Distriets~~ LEAs are required to continue with the provision of FAPE.

Idaho Content Standards. Educational standards in math and English language arts detailing what K-12 students should know at the end of each grade and establishing consistent standards across the ~~states~~ state, as well as ensuring that students graduating from high school are prepared to enter credit-bearing courses at two- or four-year college programs or enter the workforce.

Idaho Early Learning Guidelines (eGuidelines). Educational standards for young children designed to assist in guiding development and learning. These standards provide age-appropriate guidelines for children aged three (3) through the third (3rd) grade.

IEP. See "Individualized education program."

Illegal drug. A controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.

Illegal use of drugs. The unlawful use, possession, or distribution of substances identified under the Controlled Substances Act, but does not include the use of a drug taken under supervision by a licensed health care professional.

Independent educational evaluation (IEE). One or more assessment(s) conducted by a qualified examiner(s) who is not employed by or contracted by the public agency or ~~district~~ LEA responsible for the education of the student in question.

Independent living skills. See “Functional achievement and performance.”

Individualized education program (IEP). A written document (developed collaboratively by an IEP team made up of parents and school personnel) ~~which~~ ~~that~~ outlines the special education program for a student with a disability. This document is developed, reviewed, and revised ~~at~~ ~~by~~ an IEP team ~~meeting~~ at least annually.

Individualized education program (IEP) team. A team established by the IDEA and comprised of but not limited to the student’s general education teacher, a special education teacher, a district representative, parents, the student when appropriate, and other knowledgeable persons. The team is responsible for developing an IEP, determining placement, and reviewing and revising the student’s IEP and placement at least annually.

Individualized family service plan (IFSP). A written individualized plan for an infant or toddler (~~[~~birth to three (3) years of age~~]~~) with a disability that is developed by a multidisciplinary team, including the parents, under Part C of the IDEA.

Individuals with Disabilities Education Act (IDEA). A federal law ensuring services to children with disabilities. The IDEA governs how states and public agencies provide early intervention, special education, and related services to individuals with disabilities. Infants and toddlers with disabilities (birth to two) and their families receive services under IDEA Part C. Children and youth (~~[~~ages three (3) ~~through the day before the twenty-second (22nd) birthday~~ semester of school in which the student attains the age of twenty-one (21) years~~]~~ ~~to twenty-one (21)~~) receive special education and related services under IDEA Part B.

Informal Removal. Informal removal includes action taken outside of IDEA’s discipline provisions by school personnel in response to student behavior which results in the student being excluded for all or part of a school day or for an indefinite period of time. This includes: removal for a portion of a school day that a student has been suspended; removal of the student from class; removal from LEA-provided transportation; sending the student home early; repeated reliance on law enforcement or school resource officer (SRO) intervention to manage behavior; or calling a parent/guardian to pick up a student. Informal removals are considered disciplinary

removals and must be counted in the ten (10) consecutive or cumulative removals leading to change in placement.

Initial provision of service. The first time that a child with a disability is provided special education and related services. This is also referred to as the “initial placement” and means the first time a parent is offered special education and related services for their child after an initial evaluation and eligibility determination.

In-lieu of transportation. ~~Alternate method of transporting students to and from school.~~ In place of, or instead of, providing transportation. It generally refers to a situation where an LEA offers payment or another form of compensation instead of traditionally-provided transportation.

In-school suspension (ISS). Removal from the IEP-determined placement within the school setting. ISS is considered a disciplinary removal unless all three components of educational services are provided to the student: participation in general education instruction and curriculum, access to services outlined in the student’s IEP, and participation with nondisabled peers to the same extent as the student participates with nondisabled peers in the current placement.

Instructional intervention. An action or strategy based on an individual student’s skill deficit(s) ~~problem~~ that is designed to remedy, improve, or eliminate the skill deficit ~~identified problem~~.

Intellectual disability. An IDEA disability category in which ~~significant sub-average~~ significantly below-average general intellectual functioning exists concurrently with deficits in adaptive behavior. These deficits are manifested during the student’s developmental period and adversely affect the student’s educational performance. ~~The terms “mental retardation” and “cognitive impairment” were previously used to refer to this condition.~~

Intelligence quotient (IQ). A number used to express the apparent relative intelligence of an individual. This is most referenced in this Manual as it relates to Intellectual Disability.

Interagency agreement. A written document that defines the coordination between the state and/or public/private agencies and/or ~~districts~~-LEAs with respect to the responsibilities of each party for providing and funding special education programs and special education and related services.

Interim alternative educational setting (IAES). The educational setting in which ~~a district~~ an LEA may place a student with a disability, for not more than forty-five (45) school days, if the student while at school, on school premises or at a school function carries a weapon or possesses a weapon; knowingly possesses, uses, sells or solicits the sale of illegal drugs or controlled substances; or has inflicted serious bodily injury upon another person. An IAES may also be ordered by a due process hearing officer based upon evidence that maintaining the current placement is substantially likely to result in injury to the student or others.

Interim IEP. A short-term IEP with all the components of a standard IEP developed by the IEP team. It may be used for students transferring from other districts pending the development of the standard IEP or other purposes as needed.

Interpreting services. A related service for students who are deaf or hard of hearing that includes oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services. Students who are deaf-blind may require special interpreting services. ~~The process of providing accessible communication between and among persons who are deaf, hard of hearing, or deaf-blind, and those who are hearing. The process includes, but is not limited to, communication between American Sign Language or other form of manual communication and English. The process may also involve various other modalities that involve visual, gestural and tactile methods including oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell.~~

Itinerant specialist or itinerant teacher. A teacher who ~~normally~~ typically travels and provides services to students in different schools or in the home or consults with teachers and administrators.

Joint custody. A court order awarding custody of a minor child to both parents and providing that physical and/or legal custody shall be shared by the parents.

Joint legal custody. A court order providing that the parents of a child are required to share the decision-making rights, responsibilities, and authority relating to the health, education, and general welfare of the child.

Joint physical custody. A court order awarding each parent significant periods of time in which a child resides with or is under the care and supervision of each parent. The actual amount of time is determined by the court.

Junior high. See “Middle school.”

Language impairment. An IDEA disability category in which a delay or disorder exists in the development of comprehension and/or the uses of spoken or written language and/or other symbol systems and which adversely affects the student’s educational performance. A language impairment may involve any one or a combination of the following: the form of language (morphological and syntactic systems); the content of language (semantic systems); and/or the function of language in communication (pragmatic systems).

Language therapy. A related service which includes identification of students with language impairments, diagnosis and appraisal of specific language impairments, referral for professional habilitation of language impairments when necessary, and provision of language services for the habilitation or prevention of communicative impairments.

Learning disability. See “specific learning disability.”

Least restrictive environment (LRE). The IDEA requirement that students with disabilities, including those in public or private institutions or other care facilities, be educated with students who are nondisabled to the maximum extent appropriate.

Limited English Proficiency (LEP). The condition of having restricted ability to read, write, speak, or understand English, often requiring language assistance for effective communication, most often because English is not the primary language.

~~**Limited English proficient (LEP).** An individual aged three (3) to twenty-one (21), who is enrolled or preparing to enroll in elementary or secondary school, he or she was not born in the United States or his or her native language is a language other than English; he or she is a Native American or Alaska Native, or a native resident of the outlying areas; he or she comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or the individual is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant. The LEP individual's difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the him or her the ability to meet the State's proficient level of achievement on State assessments; the ability to successfully achieve in classrooms where the language of instruction is English; or the opportunity to participate fully in society.~~

Listening comprehension. For the purpose of specific learning disability eligibility, refers to the understanding of the implications and explicit meanings of words and sentences of spoken language. This includes following directions, comprehending questions, and listening and comprehending in order to learn (e.g., auditory attention, auditory memory, and auditory perception). Listening comprehension also includes the ability to make connections to previous learning.

~~**Local district.** See “district” and “local educational agency (LEA).”~~

Local educational agency (LEA). A public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools. See “district.”

Low vision or blindness. See “Blindness or low vision.”

Manifestation determination. A determination by the parent and relevant members of the IEP team of whether **or not** the conduct in question was caused by or had a direct and substantial relationship to the student's disability or if the conduct in question was the direct result of the LEA's failure to implement the IEP.

Mathematics calculation. For the purpose of specific learning disability eligibility, this refers to the knowledge and retrieval of mathematical facts and the application of procedural knowledge in computation.

Mathematics problem solving. For the purpose of specific learning disability eligibility, refers to the ability to apply mathematical concepts and understandings to real-world situations, often through word problems. It is the functional combination of computation knowledge and application knowledge and involves the use of mathematical computation skills and fluency, language, reasoning, reading, and visual-spatial skills in solving problems. Essentially, it is applying mathematical knowledge at the conceptual level.

McKinney-Vento Homeless Assistance Act. This law is designed to address the problems that homeless children and youth have faced in enrolling, attending, and succeeding in school. Under this law, state educational agencies (SEAs) must ensure that each homeless child and youth has equal access to the same free, appropriate public education, including a public preschool education, as other children and youth.

Mechanical restraint. The use of any device or equipment to restrict a student's freedom of movement. This term does not include devices implemented by trained school personnel or utilized by a student that have been prescribed by an appropriate medical or related services professional and that are used for the specific and approved purposes for which such devices were designed, such as: adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; vehicle safety restraints when used as intended during the transport of a student in a moving vehicle; restraints for medical immobilization; or orthopedically prescribed devices that permit a student to participate in activities without risk of harm.

Mediation. A voluntary, confidential, and structured process during which an ~~SDE~~ Idaho Department of Education-contracted individual is appointed to serve as an impartial and neutral third party to ~~help~~-helps parents and ~~district~~-LEA or agency personnel resolve an IDEA-related conflict. Mediation usually results in a written, legally-binding agreement that is mutually acceptable to both parties and enforceable in court.

Medicaid services (school-based). Those services, ~~assessment~~-assessments, and plan development for students receiving Medicaid which ~~school-district~~ LEAs may bill for reimbursement with the consent of the parent.

Medical services. ~~Medical services mean services~~ Services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.

Middle school. ~~A middle school is a school that does not meet the definition of an elementary school and contains grade eight (8) but does not contain grade twelve (12).~~ Generally refers to grades six (6) through eight (8), which is the educational stage between elementary and high school. The term "middle school" is often interchangeable with the term "junior high."

Migrant student. A student who has not graduated from high school or completed a high school equivalency ~~diploma~~ certificate and resides within a family that ~~is composed of~~ includes one or more migrant ~~fisher~~-fishing or agricultural workers. The student has moved within

the preceding thirty-six (36) months in order for the family to obtain or seek this type of temporary or seasonal employment that is a principal means of livelihood.

Monitoring. An activity conducted by the Idaho State Department of Education to review an LEA's ~~school district's~~ compliance with federal laws, regulations, and state rules.

Multiple disabilities. ~~An IDEA disability category in which two or more deaf-blindness), whose combination causes such severe educational needs that the student cannot be accommodated in special education services designed solely for one of the impairments.~~ An IDEA disability category in which a student has two or more co-existing, severe impairments, one of which usually includes an intellectual disability or another lifelong, developmental disability. Students with multiple disabilities exhibit impairments that are lifelong, significantly interfere with independent functioning, and necessitate environmental accommodations or adaptations to enable the student to participate in school and society.

Multi-tiered system of support (MTSS). See "Tiered interventions." ~~A systemic educational practice of matching educational instruction and interventions to the needs of students. MTSS is a data-driven model involving frequent monitoring of student progress to determine if interventions are needed to improve individual student outcomes using evidenced-based practices.~~

Native language. The language or mode of communication normally used by an individual or, in the case of a student, the language normally used by the student's parents. In all direct contact with a student, the native language would be the language or mode of communication normally used by the student in the home or learning environment.

New teacher. ~~A teacher who has less than one (1) year of teaching experience.~~ A teacher in the first one to two years in their current role. An LEA may choose to expand this definition to encompass teachers new to the State, LEA, building, or teaching assignment.

Nonprofit. A school, agency, organization, or institution owned and operated by one (1) or more nonprofit corporations or associations, no part of the net earnings of which benefits, or may lawfully benefit, any private shareholder or individual.

Nonpublic school. An educational institution or program providing instruction outside a public school, including but not limited to a private school or homeschool.

Nonpublic student. Any student who receives educational instruction outside of a public school, including but not limited to a private school or homeschool student.

Nonprofit. ~~The term 'nonprofit,' as applied to a school, agency, organization, or institution, means a school, agency, organization, or institution owned and operated by one (1) or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.~~

Nursing services. See "School health services."

Objectives. Measurable, intermediate steps that describe the progress the student is expected to make toward an annual goal in a specified amount of time; ~~similar to a benchmark~~. Objectives are required in every IEP goal area when a student qualifies to take the Alternate Assessment.

Occupational therapist. A professional licensed by the Occupational Therapy Licensure Board of Idaho who, in a school setting, is responsible for assessing fine motor skills, including students' ~~student's~~ use of hands and fingers, and developing and implementing plans for improving related motor skills. The occupational therapist focuses on daily living skills such as eating, dressing, schoolwork, play, and leisure.

Occupational therapy. A related service provided by a qualified occupational therapist for improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation, improving the ability to perform tasks for independent living.

Office of ~~special education programs~~ Special Education Programs (OSEP). The branch of the Office of Special Education and Rehabilitative Services (OSERS) within the U.S. Department of Education which is responsible for administering programs relating to the free appropriate public education to all eligible beneficiaries under the IDEA.

Oral expression. For the purpose of specific learning disability eligibility, the ability to convey wants, needs, thoughts, and ideas in a meaningful way using appropriate syntactic, pragmatic, semantic, and phonological language structures. It relates to a student's ability to express ideas, explain thinking, retell stories, categorize, ~~and~~ compare and contrast concepts or ideas, make references, and problem solve verbally.

Orientation and mobility (O&M) services. Services provided by qualified personnel to ~~blind and visually impaired low vision~~ students with blindness or low vision by qualified personnel to enable these students to attain systematic orientation to and safe movement within the home, school, and community, including teaching (1) spatial and environmental concepts and use of information received by the senses to establish, maintain, or regain orientation and line of travel; (2) use of the long white cane, or a service animal, as appropriate to supplement visual travel skills or as a tool for safely negotiating the environment for students with no available travel vision; (3) understanding and use of remaining vision and distance low vision aids; and (4) other concepts, techniques, and tools.

Orthopedic impairment. An IDEA disability category that includes severe orthopedic impairments that adversely ~~affects~~ affect a student's educational performance and are caused by congenital anomaly (e.g., clubfoot, absence of an appendage, etc.); disease (e.g., poliomyelitis, bone tuberculosis, etc.); or from other causes (e.g., cerebral palsy, amputations, ~~and~~ fractures or burns that cause contracture, etc.).

Other health impairment (OHI). An IDEA disability category in which a student exhibits limited strength, vitality or alertness, including heightened alertness to environmental stimuli that results in limited alertness with the respect to the educational environment that is due to chronic or acute health problems (such as asthma, ~~ADD or~~ ADHD, cancer,

diabetes, epilepsy, Fetal Alcohol Syndrome, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and/or Tourette syndrome and stroke.) ~~to such a degree that it adversely affects the student's educational performance.~~

Out-of-school suspension (OSS). OSS means removal from the school and the IEP-determined placement for all or part of a school day. OSS is always considered a disciplinary removal as it, by definition, ceases one or more of the required components of educational services (participation in general education instruction and curriculum, access to services outlined in the student's IEP, and participation with nondisabled peers to the same extent as the student participates with nondisabled peers in the current placement). OSS must be counted in the ten (10) consecutive or cumulative removals constituting a change in placement.

Paraprofessional. A non-certified, non-licensed individual who is employed by ~~a district~~ **an LEA** and who is appropriately qualified, trained, and supervised in accordance with state standards to assist in the provision of special education and related services.

Parent. As defined by IDEA, a parent is: (1) a biological or adoptive parent of a child; (2) a foster parent **if the parent's authority to make educational decisions for the student has been terminated by law** ~~who has lived with the child for six (6) or more months~~; (3) a guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State); (4) ~~An~~ **an** individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or (5) ~~A~~ **a** surrogate parent who has been appointed by the ~~school district~~ **LEA**. If the child is a ward of the state, the judge overseeing the child's case may appoint the surrogate. The surrogate may not be an employee of the state or ~~local education agency~~ **LEA** or any other agency that is involved in the education or care of the child, ~~has~~ **must have** no personal or professional interest which conflicts with the interest of the child, ~~has and must have~~ **must have** knowledge and skills that ensure adequate representation of the child.

Parent counseling and training. A related service which includes helping a parent understand child development and the special needs of the student and acquire skills to support the implementation of the student's IEP.

Part B. Part of the IDEA that relates to the assistance to states for the education of students with disabilities who are ages three (3) through the ~~day before the student's twenty-second (22nd) birthday~~ **semester of school in which a the student turns attains the age of twenty-one (21) years**. Part B is administered by the **Idaho State** Department of Education and carried out by ~~school districts~~ **LEAs** and other public agencies.

Part C. Part of the IDEA that relates to the assistance to states for the education of children with disabilities and the early intervention programs for infants and toddlers, ages birth through two (2), with disabilities. In Idaho, Part C is administered by the Department of Health and Welfare.

~~Peer-reviewed research.~~ A higher level of non-biased research, which has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

Personally identifiable information (PII). Includes but is not limited to: student's name, name of parent or other family member, address of student or family, social security number, student number, list of personal characteristics, or other information that would make it possible to identify the student with reasonable certainty.

Phonology. ~~The process used in our language that has common elements (sound patterns) which affect different sounds.~~ The sound system of a language and the rules that govern the combination of these sounds.

Phonology disorders. ~~Phonology disorders are errors involving~~ Errors affecting the understanding and use of phonemes; and sound patterns and the rules governing their combinations.

Physical escort. Temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of directing a student to a safe location. Physical escorting that involves methods used to immobilize a student's movement should be considered a physical restraint.

Physical restraint. Personal restriction that immobilizes or reduces the ability of a student to move the student's torso, arms, legs, or head freely. The term physical restraint does not include a physical escort.

Physical therapist. A professional licensed by the Idaho Physical Therapy Licensure Board who, in the school setting, assesses students' needs and provides interventions related to gross motor skills. In working with students with disabilities, the physical therapist provides treatment to increase muscle strength, mobility, endurance, physical movement, and range of motion; improve posture, gait, and body awareness; and monitor function, fit, and proper use of mobility aids and devices.

Physical therapy. A related service provided by a qualified physical therapist for improving gross motor skills, including treatment to increase muscle strength, mobility, endurance, physical movement, and range of motion; improve posture, gait, and body awareness; and monitor function, fit, and proper use of mobility aids and devices.

~~**Plan for improving results (PIR).** A plan developed collaboratively between the SDE and a district to address needs identified as a result of the district's self-evaluation and/or an SDE monitoring visit.~~

Positive behavioral intervention and supports (PBIS). Positive reinforcement, rewards, or consequences provided to a ~~child~~ student for specific instances of behavior that impedes learning or the learning of others ~~(or refraining from behavior)~~ as appropriate for the purpose of allowing the student to meet his or her behavioral goals/benchmarks.

Positive behavioral intervention and supports (PBIS). An evidence-based, multi-tiered framework that schools use to improve student outcomes and school climate by focusing on preventing problem behaviors and promoting positive behaviors and social-emotional skills for all students. See “Tiered interventions.”

Power of attorney. The designation, in writing, by a competent person of another to act in place of or on behalf of another person.

~~**Present level of performance (PLOP) or**~~ **Present levels of academic achievement and functional performance (PLAAFP).** ~~Used interchangeably, these area a~~ A statement of the student’s current level of achievement or development in an area of need and how the student’s disability affects his or her involvement and progress in the general education curriculum offered to students without disabilities. For preschool students, as appropriate, how the disability affects the child’s participation in ~~age-~~appropriate activities.

Private school. A nonpublic school that is not funded by or under federal or state control or supervision. A homeschool is not a private school.

Private school student. Any student who receives educational instruction in a school not funded by or under federal or state control or supervision is considered a nonpublic private school student. A homeschool student is not a private school student.

Problem-solving team. A ~~required~~ general education team, ~~the name of which may vary, which shall be~~ established at the local level, ~~whose name may vary,~~ with the purpose ~~to problem solve~~ of establishing a process to plan accommodations and tiered interventions in general education and to ensure that referrals to consider a special education evaluation are appropriate. ~~regarding the educational needs of any student.~~ Procedures, meeting schedules, and team membership are established locally. The team ~~is likely to~~ ~~shall~~ include general educators and administrators and could include counselors, specialists, and special education personnel. Parent participation is valuable but not required.

Procedural safeguards. The requirements of Part B of the IDEA that are designed to allow a parent/adult student to participate meaningfully in decisions concerning an appropriate educational program for a student with a disability and, if necessary, dispute such decisions. Also referred to as special education rights. ~~The written notification of these rights, titled *Procedural Safeguards Notice*, shall be offered to parents at least annually.~~

Professional development. High-quality comprehensive programs that are essential to ensure that persons responsible for the education or transition of students with disabilities possess the skills necessary to address the educational and related needs of these students. ~~These should be scientifically based and reflect successful practices including strategies for recruiting, hiring, preparing, and retaining personnel.~~

Professional staff. An individual who holds certification from the Idaho Department of Education and/or professional licensure.

Psychological services. A related service which includes administering and interpreting assessments related to the student’s educational performance and conditions related to

learning; consulting with other staff members in planning school programs to meet the student's special educational needs; planning and managing a program of psychological services, including psychological counseling for students and parents; and assisting in developing positive behavioral intervention strategies.

Public agency. The SEA and LEAs, including Idaho school districts and public charter schools, and any other public subdivisions of Idaho that are responsible for providing education to children with disabilities.

Public expense. When ~~a district~~ ~~an~~ LEA or public agency either pays for the full cost of an evaluation or special education services or ensures that it is otherwise provided at no cost to the parent; for example, through joint agreements with other state agencies.

Qualified personnel. An individual who holds the appropriate certification, qualifications, and/or professional licensure to perform the assigned duties.

Reading components. The term “reading” means a complex system of deriving meaning from print that requires all of the following skills, which are the essential components of reading instruction: (1) Phonemic awareness: The skills and knowledge to understand how phonemes, or speech sounds, are connected to print; (2) Phonics: The ability to decode unfamiliar words; (3) Reading fluency: The ability to read fluently; (4) Vocabulary development: Sufficient background information and vocabulary to foster reading comprehension; and (5) Reading comprehension: The development of appropriate active strategies to construct meaning from print.

Reading comprehension. For the purpose of specific learning disability eligibility, refers to the ability to understand and make meaning of written text and includes a multifaceted set of skills. Reading comprehension is influenced by oral language development including new vocabulary acquisition, listening comprehension, working memory, application of comprehension-monitoring strategies, and understanding of text structure including titles, paragraphing, illustrations, and other details. Reading comprehension is significantly affected by basic reading skills.

Reading fluency. For the purpose of specific learning disability eligibility, refer to the ability to read words and text accurately, using age-appropriate chunking strategies and a repertoire of sight words, and with appropriate rate, phrasing, and expression (prosody). Reading fluency facilitates reading comprehension.

Reasonable measures (Reasonable efforts). A combination of ~~recorded~~ written and/or oral efforts with documentation to meet notification requirements of the ~~district~~ LEA to parents/adult students.

Reasonable time. A period of ten (10) calendar days unless there are exceptional circumstances that warrant a shortened period of time such as an emergency or disciplinary meeting.

Recreation, including therapeutic recreation. A related service which includes assessment of leisure function, therapeutic recreation services, recreation programs in schools and community agencies, and leisure education.

Reevaluation. A periodic evaluation conducted at least every three years, or more frequently if conditions warrant, or if the student's parent or teacher requests an evaluation of a student already identified as eligible for services under the IDEA. Reevaluations may not occur ~~not~~ more than once a year, unless the parent and the ~~district~~ LEA agree otherwise ~~or may be waived by the parent and LEA.~~

Regular due process hearing. An administrative hearing provided on a regular timeline that is available to resolve issues related to the identification, evaluation, educational placement, or the provision of FAPE to a student.

Rehabilitation counseling services. A related service provided by qualified personnel in individual or group sessions that focus specifically on career development, employment, preparation, achieving independence, and integration in the workplace and community of a student with a disability. This also includes vocational rehabilitation services provided through vocational rehabilitation programs.

Related services. Refers to transportation and such developmental, corrective, and other supportive services required to assist a student with a disability to benefit from special education and includes the following: speech therapy, language therapy, audiology services, psychological services, physical therapy, occupational therapy, recreation, therapeutic recreation, early identification and assessment of disabilities in children, counseling services, rehabilitation counseling, orientation and mobility services, interpreting services, medical services for diagnostic or evaluation purposes, school health/nursing services (excluding surgically implanted medical devices), social work services in schools, and parent counseling and training.

Resolution session. A meeting involving the parents, relevant members of the IEP team, and a representative of the district who has decision-making authority, required prior to a due process hearing if the parent has requested the due process hearing.

Response to intervention (RTI). A formal process within a tiered system of support for evaluating student response to scientifically research-based interventions, consisting of the core components of: (1) problem identification, (2) problem analysis, (3) applying research-based, tiered interventions, and (4) progress monitoring/decisions rules. As used in the IDEA, RTI is only mentioned as an alternative to the severe discrepancy criteria in determining whether a student has a Specific Learning Disability. See "Tiered interventions."

~~**Resolution session.** A meeting involving the parents, relevant members of the IEP team, and a representative of the district who has decision-making authority, required prior to a due process hearing if the parent has requested the due process hearing.~~

School-age. Includes all persons between the ages of five (5) ([i.e., turns five (5) on or before September 1]) and ~~the day before the student's twenty-second (22nd) birthday~~ twenty-one (21) years who reside in Idaho. For students with disabilities who qualify for special education and related services under the IDEA, school-age begins at age three (3) and

continues through ~~the day before the student's twenty-second (22nd) birthday.~~ the semester of school in which the student attains the age of twenty-one (21).

School day. Any day, including a partial day, when all students are in attendance at school for instructional purposes.

School health services. ~~School health services and school nurse services means~~ A related service which includes health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.

School psychologist. A professional who holds an Idaho Pupil Personnel Services Certificate with an endorsement in Psychology and is charged with the responsibility to conduct assessments and determine a student's cognitive, academic, social, emotional, and/or behavioral functioning. This professional also provides direct services to students, consults with ~~district~~ LEA staff, and may be a member of the evaluation and/or IEP team.

Scientifically-based research (SBR). ~~Scientifically-based research (as~~ As defined in the ESEA,) means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs.; ~~and includes research that (1) employs systematic, empirical methods that draw on observation or experiment; (2) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn; (3) relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators; (4) is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls; (5) ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and (6) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.~~

Screening. An informal, although organized, process; of gathering information related to student performance. ~~identifying students who are not meeting or who may not be meeting Idaho Content Standards.~~

Seclusion. The involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. It does not include a timeout, which is a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming.

Secondary school. The term “secondary school” means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that it does not include any education beyond grade ~~twelve~~ (12). The term secondary school is not defined in Idaho Code. See “~~high~~ High school.”

Section 504 of the Rehabilitation Act of 1973. A federal law designed to protect the rights of individuals with disabilities in programs and activities that receive Federal financial assistance from the U.S. Department of Education (ED). Section 504 provides: "No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . ."

Secular. An adjective used to describe a private, non-religious educational entity.

Serious bodily injury (SBI). Bodily injury which involves (1) a substantial risk of death; (2) extreme physical pain; (3) protracted and obvious disfigurement; or (4) protracted loss or impairment of the function of bodily member, organ, or mental faculty. ~~To warrant an IAES on this basis, the injury must be severe. Minor injuries are not sufficient.~~

Services plan (SP). Services plan means a written statement that describes the special education and related services the district will provide to a parentally-placed child with a disability enrolled in a private school who ~~has been designated~~ is eligible to receive services, including the location of the services and any transportation necessary.

Setting. The location, ~~generally either a special education environment or a general education environment~~, where special education services occur. ~~The setting does not necessarily refer to a physical location.~~

Significant cognitive ~~impairments~~ disabilities. A designation given to a small number of students with disabilities for the purposes of their participation in ~~AAs~~ alternate assessments. Having significant cognitive ~~impairments~~ disabilities is not solely determined by an IQ test score, nor based on a specific disability category, but rather a complete understanding of the complex needs of a student. Students with significant cognitive ~~impairments~~ disabilities have a disability or multiple disabilities that significantly impact their adaptive skills and intellectual functioning. These students have adaptive skills well below average in two or more skill areas and intellectual functioning well below average (typically associated with an IQ below 55).

Social work services in school. A related service which may include preparing a social or developmental history on a student with a disability, group and individual counseling with the student and family, working in partnership with parents and others on those problems in the student's living situation that affect the student's adjustment in school, mobilizing school and community resources to enable the student to learn as effectively as possible in his or her educational program, and/or assisting in developing positive behavioral intervention strategies

~~**Social worker.** A professional who holds an Idaho Pupil Personnel Services Certificate with an endorsement in Social Work and helps students and teachers address social and emotional issues. This professional may be a member of the evaluation and/or IEP team.~~

~~**Socially maladjusted**~~ **Social maladjustment.** A ~~child who has a~~ persistent pattern of violating societal norms ~~with~~ characterized by behaviors such as truancy, substance abuse, ~~and/or~~ a perpetual struggle with authority. ~~, is easily frustrated, impulsive, and manipulative. This can exist concurrently with an emotional behavioral disorder.~~

Social worker. A professional who holds an Idaho Pupil Personnel Services Certificate with an endorsement in Social Work and helps students and teachers address social and emotional issues. This professional may be a member of the evaluation and/or IEP team.

Special education. Specially designed instruction, ~~or speech/language therapy~~ at no cost to the parent, to meet the unique needs of a student with a disability ~~including instruction in the classroom, the home, hospitals, institutions, and other settings; instruction in physical education; speech therapy and language therapy; transition services; travel training; assistive technology services; and vocational education.~~

Special educational placement. Refers to the provision of special education services along the continuum of placements under the least restrictive environment requirements, rather than a specific place or location, such as a specific classroom or school. The balance of setting and services to meet an individual student's needs.

Specially designed instruction. Adapting the content, methodology, or delivery of instruction to address the unique needs of an eligible student that result from the student's disability and to ensure access to the general education curriculum so that the student can meet the ~~education standards~~ Idaho Content Standards ~~of that district~~ that apply to all students.

Specific learning disability (SLD). A disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific Learning Disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, ~~of~~ intellectual disability, ~~of~~ emotional behavioral disorder, or ~~of~~ environmental, cultural, or economic disadvantage.

Speech impairment. A ~~speech-language~~ disorder, such as a speech fluency ~~disorder~~, impaired articulation/phonology, ~~a language impairment~~, or a voice impairment that adversely affects a student's educational performance.

Speech-language pathologist. A professional holding an Idaho Pupil Personnel Services Certificate who can assess and treat ~~persons~~ ~~students~~ with speech, language, voice, and fluency disorders. This professional coordinates with and may be a member of the evaluation and IEP teams.

Speech therapy. A related service which includes identification of students with speech impairments, diagnosis and appraisal of speech impairments, referral for professional habilitation of speech impairments when necessary, and provision of speech services for the habilitation or prevention of communicative impairments.

Standard deviation. A number that indicates how spread out or how varied the scores are in a group of students.

Standard score. A number that shows how a student's performance compares to that of other students of the same age or grade. Typically, standard scores are reported based on a mean (or average) of one hundred (100) and standard deviation of fifteen (15).

State educational agency (SEA). The Idaho Department of Education is the SEA and is primarily responsible for the State supervision of public elementary and secondary schools.

Stay-put. A requirement that a district or agency maintains a student with a disability in his or her present educational placement while a due process hearing or subsequent judicial proceeding is pending, unless the parties agree otherwise.

Student (school-age). For resident children with disabilities who qualify for special education and related services under the IDEA and subsequent amendments thereto, and applicable state and federal regulations, “school-age” shall begin at the attainment of age three (3) and shall continue through ~~the day before the student’s twenty-second (22nd) birthday.~~ semester of school in which the student attains the age of twenty-one (21) years.

~~**Stay-put.** A requirement that a district or agency maintain a student with a disability in his or her present educational placement while a due process hearing or subsequent judicial proceeding is pending unless the parties agree otherwise.~~

Substantial evidence. A legal term that means “beyond a preponderance of the evidence” or “beyond more likely than not.”

Summary of performance (SOP). A document given to secondary students when a student exits special education as a result of earning a diploma or aging out. This document describes the student’s academic achievement and functional performance along with recommendations to assist the student in meeting post-secondary goals.

Supplementary aids and services. ~~Supplementary aids and services means aids~~ Aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate.

Supports for school staff. A related service which includes training, equipment, assistive technology, or other supports required to ensure staff have the skills and tools necessary to address the needs of a student with a disability

Surrogate parent. An individual assigned and trained by ~~a district~~ an LEA or an agency to assume the rights and responsibilities of a parent under the IDEA when no parent can be identified or located for a particular student or when the child is a ward of the state.

Suspension. A temporary stop, delay, interruption, or cessation of educational service due to a violation of the student conduct code. This may include in-school suspension. See “Informal removal,” “In-school suspension,” “Out of school suspension,” and “Transportation suspension.”

Tiered interventions (Tiered systems of support). A comprehensive prevention framework designed to improve developmental, social, emotional, academic, and behavioral outcomes using a continuum of evidence-based strategies and supports. Within a tiered framework, educators implement universal strategies and supports designed for all children; targeted strategies and supports for children with additional needs; and intensive strategies and supports to meet the specific needs of individual children. See “Response to intervention,” “Multi-tiered systems of support,” and “Positive behavioral interventions and support.”

Traditional public school. ~~“Traditional public school” means any~~ Any school existing or to be built that is operated and controlled by a school district in this state as per Idaho Statute, Chapter 33--5202A(7).

Transition age student. A student whose upcoming IEP will be in effect for any part of the time that ~~when~~ the student is sixteen (16) through the day before their twenty-second (22nd) birthday, to semester in which the student attains the age of twenty-one (21) years of age.

Transition services. A coordinated set of activities for a student with a disability designed within a results-oriented process focused on improving the academic and functional achievement of the student to facilitate the student’s movement from school to post-school activities. Services are based on individual student needs addressing instruction, related services, community experiences, employment, post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

Transportation suspension. Suspension or removal from LEA-provided transportation as a disciplinary measure. When a student’s IEP lists transportation as a related service, removal or suspension of transportation services is considered a disciplinary removal and must be counted in the ten (10) consecutive or cumulative days of removal leading to a change in placement.

Traumatic brain injury (TBI). An IDEA disability category that refers to an injury to the brain caused by an external physical force and resulting in a total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory perception and motor abilities, psychosocial behavior, physical

functions, information processing, and speech. The term does not apply to congenital or degenerative brain injuries or to brain injuries induced by birth trauma.

Travel training. Instruction to students with significant cognitive ~~impairments~~ disabilities and any other students with disabilities who require instruction to enable them to develop an awareness of the environment in which they live and to learn the skills necessary to move effectively and safely from place to place within the home, school, and community.

Twice exceptional. Twice exceptional students are identified as gifted/talented in one or more areas of exceptionality (specific academics, general intellectual ability, creativity, leadership, visual or performing arts) and also identified with a disability defined by State eligibility criteria (SLD, EBD, Autism, Orthopedic ~~Impairments~~ Impairment, etc.) that qualifies the student for special education and related services. ~~an IEP.~~

Unilateral action. An action that was taken outside of the special education process and the action was not the result of an IEP team decision.

Unilateral placement in private school by a parent. A decision by a parent, at his or her own discretion, to remove his or her child with a disability from a public school and enroll the student in a private facility because the parent believes that the ~~district~~ LEA did not provide FAPE in a timely manner.

Unilateral removal by the LEA. When the LEA, without the agreement or participation of the IEP team, specifically the parent, denies the provision of educational services to a student. This typically happens through some type of exclusionary discipline.

Universal design. A concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities, which include products and services that are directly usable (without requiring assistive technologies) and products and services that are made usable with assistive technologies.

~~**Visual impairment including blindness.** An IDEA disability category characterized by an impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes partial sight, which refers to the ability to use vision as one channel of learning if educational materials are adapted, and blindness.~~

Voice disorder. ~~(See "speech impairment")~~ Refers to the absence or abnormal production of voice quality, pitch, intensity, or resonance. Voice disorders may be the result of a functional or an organic condition. See "Speech impairment."

Voluntary coordinated early intervening services (CEIS). Voluntary services funded by a portion of IDEA Part B funds and provided to students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade three) who are not currently identified as needing special education or related services, but who need additional academic and behavioral supports to succeed in a general education environment.

Voluntary enrollment in a private placement. Enrollment by a parent of a student with a disability in a private facility or homeschool for religious, philosophical, curricular, or other personal reasons.

Ward of the state. A child who, as determined by the State where the child resides, is a foster child (unless the foster parent meets the definition of a “parent” in Section 34 CFR §300.30), a ward of the State, or in the custody of a public child welfare agency.

Weapon. (See “dangerous weapon.”)

Workplace Readiness Standards. Standards designed to ensure students graduate from high school properly prepared with skills employers prioritize as the most important. The standards provide a means through which students may acquire and exhibit leadership qualities, as leadership development principles are embedded in most, if not all, of the standards.

Written expression. For the purpose of specific learning disability eligibility, the processes related to the transcription of ideas and thoughts into a written product, such as handwriting and spelling. It also involves generative processes such as the communication of ideas, thoughts, and feelings. Required skills include using oral language, thought, grammar, text fluency, sentence construction, and planning to produce a written product.

Written notice. A written statement provided by the ~~district~~ LEA to a parent/adult student within a reasonable amount of time before proposing or refusing to initiate or change ~~to~~ the identification, evaluation, educational placement, or the provision of FAPE.

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LEGAL CITATIONS

Introduction

The legal citations and topical reference for this Manual follow the chapter outlines and present references to federal and state statutes, regulations and rules for the enforcement of IDEA. The citations listed are the primary references for each chapter and section, not an all-inclusive reference list.

The entire IDEA and regulations are posted on the [U.S. Department of Education website](#).

[Idaho statutes and rules](#).

Some of the policies/procedures stated in this Manual are based upon case law and letters of clarification from the U.S. Office of Special Education Programs (OSEP).

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Chapter 1: Legal Citations

Legal Citations

Section	Topic	IDEA Regulations 34 CFR §	Idaho Code IDAPA Reference
1.	Purpose of IDEA Child Find	300.1 300.111	IDAPA 08.02.03.109.02.a IDAPA 08.02.03.109.02.d
2.	Procedural Safeguards	300.121 300.504	IDAPA 08.02.03.109.05
3.	Student Eligibility under the IDEA	300.8 300.122 300.306-311	Idaho Code § 33-2001(3) Idaho Code § 33-2001(5) IDAPA 08.02.03.109.03
4.	Free Appropriate Public Education (FAPE)	300.17 300.39 300.101-300.102 300.148	Idaho Code § 33-201 Idaho Code § 33-2002 Idaho Code § 33-2010 Idaho Code § 20-504(a)(3) IDAPA 08.02.03.109.02.a
5.	Distriet LEA Programs and Services	300.107-300.110 300.117	Idaho Code § 33-2002
6.	Individualized Education Program (IEP)	300.22 300.320-300.328	IDAPA 08.02.03.109.04
7.	Least Restrictive Environment (LRE)	300.114-300.120	IDAPA 08.02.03.109.04.e
8.	Summary of Activities that May Lead to Special Education Services	300.102(a) 300.112 300.116 300.124 300.300-300.307 300.309-300.311 300.320-300.324 300.503-300.504 300.622	IDAPA 08.02.03.109.02.h Idaho Code § 33-2002 IDAPA 08.02.03.109.03 IDAPA 08.02.03.109.04

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Chapter 3: Child Find

Legal Citations

Section	Topic	IDEA Regulations 34 CFR §	Idaho Code IDAPA Reference
1.	Distriet LEA Responsibility	300.111 300.131	IDAPA-08.02.03.109.02.a IDAPA-08.02.03.109.02.e IDAPA-08.02.03.109.02.d IDAPA-08.02.03.109.02.h
2.	Locating Students	300.111 300.124 300.154	IDAPA-08.02.03.109.02.a IDAPA-08.02.03.109.02.e IDAPA-08.02.03.109.02.d IDAPA-08.02.03.109.02.h
3.	Identification	300.302 300.226	IDAPA-08.02.03.109.02.h
4.	Referral to Consider a Special Education Evaluation	300.174 300.301 300.302 300.305 300.306 300.308 300.309 300.504	IDAPA-08.02.03.109.02.a IDAPA-08.02.03.109.02.h

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Chapter 4: Eligibility

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Section	Topic	IDEA Regulations 34 CFR §	Idaho Code IDAPA Reference
1.	Evaluation Team	300.306(a)(1) 300.304(c)(1)(iv) 300.308	IDAPA 08.02.03.109.03
2.	Purpose of an Evaluation	300.15 300.305	IDAPA 08.02.03.109.03
3.	Written Notice and Consent for Assessment	300.9 300.29 300.300 300.301 300.503	IDAPA 08.02.03.109.02.a
4.	Information from Other Agencies or District LEAs	300.622	IDAPA 08.02.03.109.02.a
5.	Evaluation and Eligibility Determination Procedures	300.8 300.39 300.300-300.301 300.304-300.311	IDAPA 08.02.03.109.02.a IDAPA 08.02.03.109.03
6.	Reevaluation and Continuing Eligibility	300.300 300.303 300.305-300.306 300.308	IDAPA 08.02.03.109.02.a
7.	State Eligibility Criteria	300.8 300.307-300.311	IDAPA 08.02.03.109.03

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Legal Citations

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2.	IEP Development	300.320-300.325 300.34 300.154(d)(e) 300.42 300.5-300.6 300.105(b) 300.44 300.113 300.106 300.114-300.116 300.160 300.327 300.536 300.43 300.300(b) 300.300(e)(2) 300.305(e) 300.323(d) 300.600-604 300.34 ; 300.311	IDAPA-08.02.03.109.04 Idaho Code § 33-1304 IDAPA-08.02.03.109.05 Idaho Code § 33-2002(4)
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3.	IEP Reviews	300.324	
4.	IEPs for Transfer Students	300.323(e)-(g)	IDAPA-08.02.03.109.04 (e) IDAPA-08.02.03.109.04 (f)
5.	IEPs for Children from the Infant/Toddler Program	300.323(b)	
6.	Students with Disabilities in Adult Prisons	300.102(a)(2)(i)(A)(B) 300.324(d)	20 U.S. Code § 1412

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Legal Citations

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1.	Least Restrictive Environment Considerations	300.114-300.120	IDAPA 08.02.03.109.04.a IDAPA 08.02.03.109.04.e
2.	District LEA Responsibility for Continuum of Settings and Services	300.115-300.116	IDAPA 08.02.03.109.04.a IDAPA 08.02.03.109.04.e
3.	Federal Reporting of LRE	300.600-604	IDAPA 08.02.03.109.04.g

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Legal Citations

Section	Topic	IDEA Regulations 34 CFR §	Idaho Code IDAPA Reference
1.	Discontinuation of Services	300.9 300.305 300.306 300.102 (a)(3) 300.503	Idaho Code § 33-201 Idaho Code § 33-209 IDAPA 08.02.03.109.07
2.	Graduation	300.102. (a)(3) (i-iii) 300.320 (b)(2)	IDAPA 08.02.03.109.07
3.	Transcripts and Diplomas		<i>Letter to Runkel</i> , 25 IDELR 387 (OCR 1996) 20 U.S. Code § 1412
4.	Grades, Class Ranking, and Honor Roll		<i>Letter to Runkel</i> , 25 IDELR 387 (OCR 1996)

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Chapter 8: Charter Schools

Legal Citations

Section	Topic	IDEA Regulations 34 CFR §	Idaho Code IDAPA Reference
1.	Definition and Parent/Student Rights	300.7 300.209(a)	Idaho Code § 33-5205 Idaho Code § 33-5206
2.	Responsibility for Services	300.2 300.209(b-c)	Idaho Code § 33-5205 IDAPA 08.02.03.109.02.a IDAPA 08.02.03.109.02.e
3.	Essential Components of a Special Education Program	300.209	Idaho Code § 33-5205 IDAPA 08.02.03.109.02.e
4.	Charter Schools and Dual Enrollment		Idaho Code § 33-203 Idaho Code § 33-2002
5.	Funding	300.704(b)(4)(ix) 300.705 300.209	Idaho Code § 33-5208 Idaho Code § 33-1002B Idaho Code § 33-2004 Idaho Code § 33-2005 Idaho Code § 33-5208 (9)

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Legal Citations

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2.	Students Voluntarily Enrolled by Parents	300.37 300.131-300.133 300.134 300.135 (a-b) 300.137 (b)(2) 300.136 (a)(1-2) 300.136 (b)(1-3) 300.111 (1)(i-ii) 300.131 (a-f) 300.137 (a) 300.138 (a)(1-2) 300.138 (c)(2) 300.132 (a-b) 300.138 (2) (b) 300.132 (b) 300.138 (b) (2) 300.320 300.323 (b) 300.139 (b) (1-2) 300.140 (a-c) 300.133 300.144	IDAPA-08.02.03.109.02.d
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4.	Dual Enrollment by Parents	300.137(a)	Idaho Code § 33.203 IDAPA-08.02.03.109.02.d
5.	Students Unilaterally Placed by their Parents when FAPE is Issued	300.148 300.101	IDAPA-08.02.03.109.02.d
6.	Out of State Students Residing in Residential Facilities	300.131	IDAPA-08.02.03.109.02.d

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Chapter 10: Homeschool

Legal Citations

Section	Topic	IDEA Regulations 34 CFR §	Idaho Code IDAPA Reference
1.	Definitions		Idaho Code 33-203 Idaho Code 33-202
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Chapter 11 ~~12~~: Discipline

Legal Citations

Section	Topic	IDEA Regulations 34 CFR §	Idaho Code IDAPA Reference
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3.	FAPE Considerations	300.530-531	Idaho Code § 33- 1501
4.	Procedures for a Manifestation Determination	300.503(e-f)	Idaho Code § 33- 205
5.	Other Considerations	300.532(a) 300.532(e) 300.533 300.534	IDAPA 08.02.03.109.5.e IDAPA 08.02.03.109.5.f Idaho Code § 33- 209
1.	Supporting Challenging Behavior		
2.	Educational Services and Types of Removal	300.530	
3.	Change of Placement	300.530-300.532 300.536	
4.	Manifestation Determination	300.530	
5.	Actions Following a Manifestation Determination	300.530-533	
6.	FAPE Considerations	300.530 U.S. Department of Education. (n.d.). <i>Positive, proactive approaches to supporting children with disabilities: A guide for stakeholders</i> . Retrieved from https://www2.ed.gov/policy/ speced/guid/idea/positive- proactive-approaches.pdf U.S. Department of Education. (n.d.). <i>Questions and answers: Addressing the</i>	

Section	Topic	IDEA Regulations 34 CFR §	Idaho Code IDAPA Reference
		<i>needs of children with disabilities and IDEA's discipline provisions</i> (p. 26). Retrieved from https://www2.ed.gov/policy/speced/guid/idea/discipline-q-a.pdf U.S. Department of Education. (n.d.). <i>Supporting students with disabilities and avoiding the discriminatory use of student discipline under Section 504 of the Rehabilitation Act of 1973</i>. Retrieved from https://www2.ed.gov/policy/rights/guid/ocr/504-student-discipline.pdf	
7.	Restraint and Seclusion	U.S. Department of Education. (n.d.). <i>Students with disabilities and the use of restraint and seclusion in K-12 public schools</i>. Retrieved from https://www2.ed.gov/policy/seclusion/restraint-and-seclusion.pdf	Idaho Code 33-1224
8.	Other Considerations	300.532-534 Honig, 484 US 305; Light v. Parkway C-2 Sch. Dist., 41 F3d 1223 (8th Cir 1994). OSEP Memorandum 97-7, 26 IDELR 981 (OSEP 1997); 43 Fed Reg at 12,621 (1999).	

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Chapter **12** ~~11~~: Procedural Safeguards

Legal Citations

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1.	Procedural Safeguards Notice	300.504	IDAPA 08.02.03.109.05
2.	Domestic Considerations	300.30 300.519 300.320 300.520 300.530 300.030	Idaho Code § 32-717A Idaho Code § 32-717B <i>Letter to Cox</i> 54 IDLER 60 (110 LRP 10357)
3.	Informed Consent	300.9 300.300	
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5.	Confidentiality and Access to Records	300.32 300.611 300.622 300.614 300.613 300.616 300.623-300.625 300.618-300.621	IDAPA 08.02.03.109.05k Idaho Code § 32-717A Idaho Code § 33-133 (6)
6.	Independent Educational Evaluations	300.502	IDAPA 08.02.03.109.05j

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Chapter 13: Dispute Resolution

Legal Citations

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2.	Informal Conflict Resolution	300.506	IDAPA 08.02.03.109.05.b
3.2.	Mediation	300.506 300.151-300.152	IDAPA 08.02.03.109.05.b
4.3.	State Complaints	300.151-300.153 300.507-300.508 300.510-515 300.518	IDAPA 08.02.03.109.05
5.4.	Due Process Hearings	300.507-300.518	IDAPA 08.02.03.109.01.d IDAPA 08.02.03.109.05.e,e,f
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Chapter 11: Improving Results**Chapter 14: General Supervision System Requirements****Legal Citations**

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1.	Monitoring Priorities and Indicators	300.600-604	IDAPA 08.02.03.109.02
2.	Early Intervening Services	300.226 300.205 (d) 300.208 (a) (2) 300.711	IDAPA 08.02.03.109.02
3.	Personnel	300.156 300.704 (b) (4) (vii)	IDAPA 08.02.03.109.02 IDAPA 16.03.09
1.	Department's General Supervision Requirements	300.149 300.146 300.167-168	
2.	Integrated Monitoring Activities	300.149	
3.	Coordinated Early Intervening Services (CEIS) and Comprehensive Coordinated Early Intervening Services (CCEIS)	300.226 300.205 (d) 300.208 (a) (2) 300.646 300.711	
4.	Comprehensive Coordinated Early Intervening Services (CCEIS)	300.646	
5.	Personnel	300.156 300.704 (b) (4) (vii)	IDAPA 16.03.09

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CHAPTER 1: OVERVIEW

Three (3) federal laws have been passed to ensure educational opportunities for individuals with disabilities:

1. the Individuals with Disabilities Education Act (IDEA)
2. Section 504 of the Rehabilitation Act of 1973 (Section 504)
3. the Americans with Disabilities Act of 1990 (ADA)

The ~~last-most recent~~ reauthorization of the IDEA was in 2004 and aligned the law with the Elementary and Secondary Education Act of 2001. In 2015, the Every Student Succeeds Act (ESSA) was passed. Revisions to the IDEA regulations were issued in 2007, 2008, 2013, ~~and 2014, 2015, 2016, and 2017 with additional regulatory changes to the IDEA currently pending.~~ The IDEA preserves the basic structure and civil rights of previous reauthorizations and emphasizes both *access* to education and *improved results* for students with disabilities based on data and public accountability.

This Manual represents Idaho's interpretation of IDEA and, in combination with guidance issued by the Department, outlines procedural requirements for the implementation of the IDEA in Idaho. This Manual provides information regarding ~~district~~ LEA and charter responsibilities under the IDEA and relevant Idaho legal requirements.

Section 1. Child Find

Each ~~The~~ district or charter is a local education agency (LEA) and is required to ~~is responsible for~~ establishing and implementing an ongoing Child Find system. Child Find activities are conducted to create public awareness of special education programs; to advise the public of the rights of students; and to alert community residents of the need for identifying and serving students with disabilities from the age of three (3) through ~~the semester in which they turn the age of twenty-one (21) years inclusive, until the student's twenty-second (22nd) birthday.~~

The ~~district~~ LEA is also responsible for coordinating with the Department of Health and Welfare regarding the Child Find system for children ages birth through two (2) years. The Child Find system includes children with disabilities who are homeless, as defined by the McKinney-Vento Homeless Assistance Act (see Glossary), wards of the state, or attending private schools, regardless of the severity of the disability.

See Chapter 3 for more information on Child Find.

Section 2. Procedural Safeguards

A parent/adult student has specific procedural safeguards assured by the IDEA and state law. The ~~district~~ LEA provides a document titled *Procedural Safeguards Notice* to parents/adult

students. *The Procedural Safeguards Notice* ~~that contain~~ contains a full explanation of special education rights.

See Chapter ~~11~~ 12 for more information on procedural safeguards.

Section 3. Student Eligibility under the IDEA

To be eligible for services under the IDEA, a student must have a disability that:

1. meets the ~~Idaho state disability~~ State eligibility criteria as established in this manual;
2. adversely affects educational performance; and
3. results in the need for specially designed instruction ~~and related services~~.

The process used to make this ~~decision determination~~ is an evaluation to determine special education eligibility ~~called “eligibility evaluation.”~~ During ~~this process an eligibility evaluation~~, an evaluation team (which includes educators and the parent/adult student) reviews information from multiple sources including, but not limited to, general education interventions, formal and informal assessments, and progress in the general education curriculum ~~in making the eligibility determination~~.

See Chapter 4 for more information on eligibility and evaluation.

Section 4. Free Appropriate Public Education (FAPE)

The ~~district~~ (LEA) is required to ensure that a free appropriate public education (FAPE) is available to students who reside ~~in~~ within the ~~district~~ LEA's boundaries and are eligible for special education. FAPE is individually determined for each student that qualifies for special education. FAPE *must* include special education in the least restrictive environment (LRE) and *may* include related services, transition services, supplementary aids and services, and/or assistive technology devices and services. A definition of each of these terms can be found in the glossary.

See Chapter 2 for more information on FAPE.

Section 5. ~~District~~ LEA Programs and Services

The ~~district~~ LEA shall ensure that the same array of academic, nonacademic, and extracurricular activities and services is available to students with disabilities as is available to students without disabilities.

A. Educational Programs and Services

The ~~district~~ LEA shall take steps to ensure that students with disabilities have access to the variety of educational programs and services that are available to all other students served by the ~~district~~ LEA. These may include art, music, industrial arts, ~~consumer and homemaking education, vocational education~~ career technical education, and any other programs in which students without disabilities participate.

B. Physical Education

Physical education services, specially designed if necessary, shall be made available to every student with a disability receiving FAPE, unless the ~~district~~ LEA enrolls ~~children~~ students without disabilities and does not provide physical education to ~~children~~ students without disabilities in the same grades.

C. Nonacademic and Extracurricular Services and Activities

The ~~district~~ LEA shall take steps, including the provision of supplementary aids and services determined appropriate and necessary by the student's Individualized Education Program (IEP) team, to provide nonacademic and extracurricular services and activities in a manner that affords students with disabilities equal opportunity to participate in those services and activities. This includes counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the ~~district~~ LEA, referrals to agencies that provide assistance to persons with disabilities, and employment of students, including both employment by the ~~district~~ LEA and assistance in making outside employment available.

Section 6. Individualized Education Program (IEP)

The IEP is a document that outlines how a particular student with a disability will receive a ~~free appropriate public education (FAPE)~~ in the ~~least restrictive environment (LRE)~~. It is a working document that can be amended as the student's needs change. The IEP is created collaboratively by ~~required~~ IEP team members, including parents, the student, if appropriate, ~~the student's teachers~~, and other ~~district~~ LEA personnel.

See Chapter 5 for more information on IEP development.

Section 7. Least Restrictive Environment (LRE)

The IDEA states that, to the maximum extent appropriate, students with disabilities are to be educated with students who are not disabled. The IEP team determines what constitutes LRE for the individual student. ~~This includes considering that~~ LRE requirements include ensuring that a continuum of alternative placements is available to meet the needs of ~~children~~ students with disabilities and for special education and related services.

See Chapter 6 for more information on LRE.

Section 8. Summary of Activities That May Lead to Special Education Services

This section describes the steps that may lead to special education services. The activities ~~that are~~ within each step are often sequential, but ~~could~~ may occur simultaneously. The process might occur in a different sequence for emergency or interim placements. ~~A flowchart of these steps is provided at the end of this chapter.~~

A. General Education Interventions ~~(carried out by the problem-solving team)~~

A general education problem-solving team, which may be referred to as a Response to Intervention (RTI) team or Multi-Tiered Systems of Support (MTSS) team, addresses student learning needs and ensures that referrals to consider special education are appropriate.

The general education problem-solving process ~~may~~ shall include comprehensive early intervening services based on whole-school approaches such as: a ~~three~~-tiered model using scientifically based reading (and other content area) programs, positive behavior supports, and a response-to-intervention system.

~~Accommodations and~~ instructional and/or behavioral interventions shall be attempted during the problem-solving process. These ~~accommodations and~~ ~~tiered interventions~~ shall be of sufficient scope and duration to determine the effects on the student's educational performance and shall be clearly documented.

If the student shows adequate progress with ~~tiered~~ general education interventions ~~and accommodations~~, a referral to consider a special education evaluation may be unnecessary. However, if ~~tiered~~ general education interventions ~~and accommodations~~ need to be provided on an ongoing basis or if the student shows limited or no progress *and* the student's performance is significantly discrepant from peers, a referral to consider a special education evaluation may be warranted. Also, a parent of a student may initiate a referral for special education at any time. ~~and a district~~ An LEA may not deny that referral simply because the student ~~had~~ has not gone through the ~~tiered~~ general education intervention process.

See Chapter 4 for more information on problem-solving activities ~~and the three-tiered model~~.

B. Referral to Consider a Special Education Evaluation

Following the problem-solving team's review of the student's response to general education interventions, ~~and/or~~ if the team suspects that the student has a disability and may be in need of special education, the problem-solving team shall initiate a referral to consider a special education evaluation. The purpose of this referral is to bring a student to the attention of an evaluation team so that it can determine whether to conduct a special education evaluation.

A referral for a special education evaluation marks the point at which procedural safeguards are provided to the parent. The parent/adult student shall be involved in decisions once ~~the a written~~ referral ~~to consider a special education evaluation process has begun~~ ~~has been made to the evaluation team to consider a special education evaluation~~.

The evaluation team shall review existing data, which may include progress monitoring data ~~from the student's IEP, and/or clinical~~ assessments and information provided by the parent/adult student. ~~The evaluation team, and shall~~ document the review process, ~~to and consider~~ ~~determine~~ the need for further assessment. The evaluation team ~~will procure~~ shall obtain ~~the necessary~~ written ~~consents~~ consent prior to conducting ~~for additional~~ an initial evaluation and for subsequent assessments ~~used to determine eligibility~~.

See Chapter 3 for more information on the referral process to consider a special education evaluation ~~and who can make a referral~~.

C. Written Notice and Written Consent ~~(completed by an evaluation team)~~

Before administering assessments as part of the special education evaluation, written notice shall be provided to the parent/adult student along with the procedural safeguards and written consent shall be ~~requested~~ ~~obtained~~ from the parent/adult student. The ~~district~~ LEA may use a single form that meets the requirements of written notice and consent for assessment. In addition, if the evaluation team needs information for an evaluation from a non-educational agency or an individual, such as a doctor, written consent for the release of information shall be obtained from the parent/adult student.

See Chapter 4 and Chapter ~~11~~ 12 for more information.

D. Evaluation and Eligibility Determination ~~(completed by evaluation team)~~

After receiving consent, the evaluation team shall schedule assessments and ensure they are conducted. The evaluation must be sufficiently comprehensive to identify all of the ~~child's~~ ~~student's~~ special education and related services needs. Next, the evaluation team reviews the assessment data, the response to general education targeted interventions, and parent/adult student input and recommendations to determine whether the student is eligible for special education services. ~~Then~~ the evaluation team ~~then~~ compiles an *Eligibility Report* using data collected from individual assessments and provides the parent/adult student with a copy of the report. The eligibility report shall address, to the extent required, the general education ~~instruction provided~~ ~~classroom~~, targeted interventions previously employed, and the student's response to those interventions.

For children transferring from the Infant Toddler Program (ITP), eligibility shall be determined and an IEP ~~developed~~ or Individual Family Services Plan (IFSP) ~~developed and implemented~~ ~~adopted~~ by the child's third (3rd) birthday. ~~See Chapter 5 for guidance on expectations.~~ If a child turns three (3) during the summer, and the child does not require Extended School Year (ESY) services, ~~the IEP team shall determine when~~ special education and related services ~~will~~ ~~may~~ begin, ~~which may be~~ in the new school year ~~if the parent and LEA agree~~.

See Chapter 5 for more information on IEPs for children from ITP.

For ~~children~~ students ages three (3) through ~~the semester in which the student attains the age of twenty-one (21) years~~ ~~until the day before the student's twenty-second (22nd) birthday~~, the time between receiving consent for an initial ~~evaluation and/or assessments~~ and determining eligibility cannot exceed ~~sixty (60) calendar~~ ~~forty-five (45) school~~ days, ~~excluding periods when regular school is not in session for five (5) or more consecutive school days (IDAPA 08.02.03-109.03)~~, with the exception of ITP referrals which must be completed by the child's third (3rd) birthday. ~~The parent and district may agree, in writing, to extend the sixty (60) day period.~~ In exceptional circumstances, the timeline may be extended beyond the ~~sixty (60)~~ ~~forty-five (45) school~~ day period.

See Chapter 4 for ~~guidance~~ ~~more information~~ on timeline exceptions.

If the student is ~~found~~ not eligible ~~for special education~~, the ~~district~~ LEA shall provide ~~written~~

~~notice~~ *Written Notice* to the parent/adult student that the evaluation data does not indicate eligibility under the IDEA ~~even though the parent is a member of the team that determines eligibility~~. The ~~district~~ LEA shall maintain documentation in ~~permanent~~ the student's educational records.

If the parent/adult student disagrees *in whole or in part* with the ~~district's~~ LEA's evaluation and/or the eligibility determination, he or she has the right to request ~~SDE~~ Idaho Department of Education mediation, file a due process hearing challenging the decision, or seek an independent educational evaluation (IEE).

See Chapter ~~11~~ 12 for more information.

E. IEP Development and Implementation ~~(completed by IEP team)~~

The following activities are included in the development and implementation of the IEP:

1. Conduct an IEP team meeting to develop and implement an IEP within thirty (30) calendar days of a determination that the student is eligible for special education and related services. For eligible students, the IEP can be developed at the same meeting at which eligibility is determined if all required IEP team members are present and agree to proceed.
2. After determining goals and services, determine the *student's* placement in the LRE in which the IEP can be implemented. ~~For those goals that are aligned to the alternate academic achievement standards, objectives and benchmarks shall be written.~~
3. Obtain documentation indicating participation in the IEP team meeting.
4. Obtain *initial* consent *in writing* from the parent/adult student for ~~the~~ *initial* provision of special education services.
5. Provide copies of the IEP to the parent/adult student and other participants, as appropriate.
6. Provide written notice to the parent/adult student ~~before implementing the IEP if the provision of FAPE or the educational placement is proposed to change or if the team refused to make a change based on the parent's request~~ to address proposals or refusals to initiate or change the identification, evaluation, or education placement of the student, or the provision of FAPE to the student.
7. Make arrangements for IEP services by informing staff of their specific responsibilities under the IEP.
8. Implement the IEP as soon as possible, but no later than within thirty (30) days of eligibility *determination*. ~~(See Chapter 4 for guidance on timeline exceptions.)~~
9. Provide the parent/adult student with periodic reports of the student's progress towards IEP goals ~~(such as quarterly or other periodic reports,~~ at a *minimum*, concurrent with the issuance of report cards).

See Chapter 5 for more information on IEP development.

F. Review and Revision of IEP and Placement Decision ~~(completed by IEP team)~~

1. Send the parent/adult student a *Procedural Safeguards Notice* with an invitation to attend an IEP team meeting (required at least once annually).
2. Convene an IEP team meeting under these circumstances:
 - a. when changes in the IEP are requested or if the student is not making progress. In addition, the IDEA allows changes to the IEP without an IEP team meeting between the annual review dates if the ~~district~~ LEA and parent agree; and
 - b. at least annually to develop a new IEP.
3. Provide a copy of the ~~revised~~-amended IEP to the parent and the adult student when an IEP is amended or rewritten. In addition, written notice is required if the ~~district~~ LEA is proposing to change or refusing to change the educational placement or the provision of FAPE.
4. Under Idaho regulations, the parent/adult student has the right to file a written objection to an IEP program change or placement change. If, within ten (10) calendar days of receiving written notice from the ~~district~~ LEA, the parent/adult student files a written objection, the ~~district~~ LEA shall not implement the change(s) to which the parent/adult student objects for 15 calendar days.

See Chapter 5 for more information on IEP reviews and Chapter ~~11~~-12 for more information about written objections.

~~See Chapter 5 for more information on IEP reviews.~~

G. Reevaluation ~~(completed by evaluation team)~~

Reevaluations are conducted by the evaluation team. A reevaluation shall be completed as follows: (a) at least every three years, (b) when requested by the student's teacher or the parent/adult student, and (c) whenever conditions warrant. ~~Approximately one month before conducting the reevaluation, the district shall inform the parent/adult student that a reevaluation is due. The parent/adult student and district may agree in writing that a three-year reevaluation is not necessary. In addition, a~~ A reevaluation ~~need~~ may not be conducted more than once per year unless the ~~district~~ LEA and the parents agree.

The evaluation team shall include the following activities in the reevaluation process:

1. Invite the parent/adult student to participate in the review of existing data and to determine what additional data, if any, is needed as part of the reevaluation. Unless the parent/adult student requests that the evaluation team members meet as a group in a formal meeting, data can be gathered from individual team members at various times using a variety of methods.
2. Obtain written consent from the parent/adult student if ~~additional~~-assessments shall be conducted. After gaining consent, ensure the completion of assessments and the

eligibility reports. The IDEA does not require consent for a reevaluation if the ~~district~~ LEA has made documented attempts to ~~get~~ obtain consent and the parent has not responded.

3. If the evaluation team determines that ~~additional~~ assessments are not needed to make an eligibility determination, provide ~~written notice~~ *Written Notice* to the parent/adult student of this decision and of the parent's/adult student's right to request assessments.
4. Prepare an *Eligibility Report* that details the eligibility requirements for the student, even when no new assessments are conducted. The report shall address each required eligibility component.
5. Make an eligibility determination as a team. Provide the parent/adult student with a final copy of the *Eligibility Report*.
6. Determine whether revisions to the IEP are necessary and implement an IEP, if the student continues to be eligible. If the student is not eligible, follow procedures to discontinue services.

See Chapter 4 for more information on reevaluation.

H. Discontinuation of Services

Provide ~~prior written notice~~ *Written Notice* to the parent/adult student informing them of the discontinuation of services when:

1. The evaluation team determines the student no longer meets eligibility requirements for special education services; or
2. The student meets the ~~district~~ LEA and State requirements that apply to all students for receipt of a regular high school diploma; or
3. The student ~~reaches the day before the student's twenty-second (22nd) birthday~~ completes the semester in which he or she reaches attains the age of twenty-one (21) years; or
4. Parent/adult student revokes consent for special education services.

When a student exits from special education as a result of graduating or aging out, the ~~district~~ LEA shall provide the student with a summary of his or her academic achievement and functional performance, along with recommendations on how to assist the student in meeting postsecondary goals.

See Chapter 7 for more information on the discontinuation of services.

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CHAPTER 2: FREE APPROPRIATE PUBLIC EDUCATION

The ~~district (local education agency)~~ LEA is required to ensure that a free appropriate public education (FAPE) is available to residents, homeless individuals and individuals from migrant families ages three (3) ~~to through the semester in which the student attains the age of twenty-one (21) years, until the day before the student's twenty-second (22nd) birthday;~~ residing or enrolled in the ~~district~~ LEA and who are eligible for special education. FAPE is individually determined for each student with a disability. FAPE *must* include special education in the least restrictive environment (LRE) and *may* include related services, transition services, supplementary aids and services, and/or assistive technology devices and services. A definition of each of these terms can be found in the ~~glossary~~ Glossary.

Section 1. Definition of a Free Appropriate Public Education (FAPE)

The definition of FAPE under the IDEA means special education and related services that ~~are~~:

1. ~~are-FREE~~: provided at public expense-~~(free)~~;
2. ~~are-APPROPRIATE~~: provided in conformity with an appropriately developed individualized education program,~~or (IEP) (appropriate)~~;
3. ~~are-PUBLIC~~: provided under public supervision and direction-~~(public)~~; and
4. ~~EDUCATION~~: include an appropriate preschool, elementary, and secondary education that meets the education standards, regulations, and administrative policies and procedures issued by the ~~State-Idaho~~ Department of Education-~~(education)~~.

Section 2. Provision of FAPE

A. ~~District~~ LEA Obligation

The ~~district~~ LEA is required to ensure that FAPE is available to students residing or enrolled in the ~~district~~ LEA who are eligible for special education. This includes students who reside in group, personal care, or foster homes, as well as institutions, if their legal guardian is a resident of Idaho, even though the guardian may reside in another Idaho ~~school-district~~ LEA. It also includes students who are migratory or homeless as defined by the McKinney-Vento Homeless Assistance Act (see Glossary). If a student from another state is placed in Idaho by an out-of-state agency, parent, or ~~district~~ LEA, the placing ~~district~~ LEA, parent, or agency is responsible for the educational costs. If a student is placed in ~~a-district an~~ LEA by an Idaho agency, the student is entitled to FAPE and the responsible agency is determined by Idaho Code regarding the specific situation.

The ~~district~~ LEA is obligated to make FAPE available to each eligible student in the ~~district~~ LEA as follows:

1. The ~~district~~ LEA shall provide FAPE to an individual who is at least three (3) years old and qualifies for special education services unless the parent/adult student has refused special education services. ~~Students aged three (3) to five (5) must have their special education services identified on an IEP since Idaho does not have state-funded preschool programs.~~

2. The ~~district~~ LEA shall offer FAPE to parentally-placed ~~private-school~~ students in nonprofit private schools in accordance ~~to with~~ statutory and regulatory language, ~~which states that parentally-placed private-school students with disabilities do not have an individual right to some or all of the special education and related services that the student would receive if enrolled in a public school.~~
3. A free appropriate public education shall be available to any individual ~~child~~ student with a disability who needs special education and related services, even though the ~~child~~ student has not failed or been retained in a course and is advancing from grade to grade.
4. ~~Note:~~ Participation in Comprehensive Early Intervening Services neither limits nor creates a right to FAPE.

See Chapters 5, 8, 9, 10, and 14 for more information about the FAPE obligation.

B. Limit to ~~District~~ LEA Obligation

A student with a disability who has been placed in a nonprofit private school or facility by the parent does not have an individual right to receive all or part of the special education and related services that the student would receive if enrolled in a public school. However, the LEA would have Child Find responsibilities. Students who are homeschooled are considered nonpublic school students; however, a student being homeschooled is not considered a private school student.

See Chapters 9 and 10 for more information about FAPE as it relates to parentally-placed private school students and homeschool students.

- ~~1. A student with a disability who has been placed in a private school or facility by the parent does not have an individual right to receive all or part of the special education and related services that the child would receive if enrolled in a public school. However, the district would have Child Find responsibilities. See Chapter 9 for more information.~~
- ~~2. Students who are homeschooled are considered nonpublic students for the purpose of dual enrollment, however a student being homeschooled is not considered a private school student. Students who are dually enrolled in a school district's general education program may be considered for a Section 504 plan if needed to provide supports and/or accommodations for those general education courses in which they are enrolled. A student who is enrolled in a virtual public school is not considered a homeschooled student for the duration that they attend that virtual public school.~~
 - ~~i. Homeschool students who are dually enrolled are considered to be nonpublic school students. The district shall allow homeschool students who are eligible for special education and who are otherwise qualified to participate in school programs under the dual enrollment law to:

 - ~~1. enroll in general education courses under the same criteria and conditions as students without disabilities; and~~
 - ~~2. receive accommodations in the general education courses for which they are~~~~

~~enrolled on a Section 504 plan, if needed.~~

- ~~3. Homeschool students may not dually enroll solely for special education and/or related services. The dual enrollment statute does not establish an entitlement to FAPE for a student with a disability. This means that there is no individual right to receive some or all special education services that the student would receive if enrolled in public school.~~

C. When ~~District~~ LEA Obligation to Provide FAPE Ends

The ~~District's~~ LEA's obligation to provide FAPE to a student ends:

1. ~~the day prior to the student's twenty-second (22nd) birthday~~ at the completion of the semester in which the student ~~turns~~ attains the age of twenty-one (21) years ~~old~~;
2. when the student meets the ~~district~~ LEA requirements and the Idaho Content Standards that apply to all students for receipt of a high school diploma; a high school diploma does not include an alternative degree that is not fully aligned with the Idaho Content Standards, such as a ~~high school equivalency diploma~~ ~~general educational development credential (GED)~~;
3. when the student no longer meets the eligibility criteria for special education services, as determined by the team after a reevaluation; or
4. when a parent/adult student has revoked consent for the continued provision of special education services.

D. Temporary Suspension of ~~FAPE~~ Educational Services

The ~~district~~ LEA is not required to provide ~~FAPE~~ educational services to an eligible student during ~~the~~ a suspension of ten (10) cumulative school days or less during a school year (unless the ~~district~~ LEA provides services to students who are not disabled who are also suspended); however, ~~FAPE~~ educational services must be provided following this ten (10) day exception.

Section 3. FAPE Considerations

~~(a) A. Case Law Interpretations of FAPE~~

~~The definition of FAPE has been further developed as a result of litigation between parents and districts.~~

~~In 1982, the United States Supreme Court in Board of Education of the Hendrick Hudson Central School District, et al. v. Rowley, et al. defined FAPE as:~~

- ~~1. an IEP developed in adequate compliance with the IDEA procedures; and~~
- ~~2. an IEP reasonably calculated to enable the student to receive educational benefit (the Rowley Standard).~~

~~In March 2017, the Court in Endrew F. v. Douglas County School District applies the Rowley~~

~~Standard, indicating that a school must offer an IEP that is specially designed and reasonably calculated to enable a child to “make progress appropriate in light of the child’s circumstances,” emphasizing the unique needs of the child. The educational program offered “must be appropriately ambitious in light” of [Endrew F’s] unique circumstances just as advancement from grade to grade is appropriately ambitious for most students in a regular classroom. They may differ [comparing Amy Rowley to Endrew F] but every child should have a chance to meet challenging objectives.~~

~~The Court expresses its confidence that school authorities will “be able to offer a cogent and responsive explanation for their decision”, demonstrating that the IEP is reasonably calculated to enable the student to make progress in light of the student’s individual circumstances.~~

~~B.A.~~ Applicability to Charter and Alternative Schools

Federal law requires ~~the district to provide that~~ students with disabilities ~~be provided~~ educational choices comparable to those choices offered to students without disabilities. These choices include the opportunity to attend a public charter school or alternative public school. Students enrolled in public charter and alternative schools are entitled to FAPE and retain all ~~of~~ the rights and protections that are available under the IDEA.

~~C.B.~~ Applicability to Detained Youth

Students with disabilities or suspected disabilities who are detained in city or county jails, juvenile detention centers, juvenile correctional facilities, or ~~in~~ Idaho prisons are entitled to FAPE.

1. Services to Youth Detained in City or County Jails: The ~~district~~ LEA in which the facility is located has the responsibility for Child Find and the provision of FAPE to eligible youth.
2. Services to Youth Detained in Juvenile Detention Centers (JDC): The ~~district~~ LEA in which the facility is located has the responsibility for the provision of FAPE to eligible youth. Typically, detention in a JDC is short term, and the student most likely returns to his or her home ~~district~~ LEA. ~~While not obligated to do so, If an district LEA has a student who is detained in a JDC not located within the district LEA boundaries, the district home LEA may find it beneficial to coordinate school assignments through the JDC’s education staff while the student is in the facility.~~
3. Services to Youth Placed in the Custody of the Department of Juvenile Corrections (DJC): When a student is placed in the custody of the Department of Juvenile Corrections, the responsibility for the provision of FAPE resides with the Department of Juvenile Corrections.
4. Services to Youth in the Custody of the Department of Correction (DOC): When a student is placed in the custody of the Department of Correction, the responsibility for the provision of FAPE resides with the Department of Correction. ~~through an agreement between the SDE and the Department of Correction.~~

~~D.C.~~ Using Public and Private Insurance Funds to Provide FAPE

If a student is covered by a parent's private or public insurance or benefits, the ~~district~~ LEA may access this insurance only if the parent provides informed consent. The consent requirements are different for accessing a parent's private insurance as opposed to public insurance (such as Medicaid).

If a ~~district~~ an LEA proposes to access a parent's public insurance to cover any of the costs associated with the provision of special education and/or related services, the ~~district~~ LEA must do the following:

1. Provide written notification regarding the use of public benefits or insurance to the child's parents before accessing the child's or the parent's public benefits or insurance for the first time and prior to obtaining the one-time parental consent and annually thereafter. The written notification must explain all of the protections available to parents to ensure that parents are fully informed of their rights before a public agency can access their or their child's public benefits or insurance to pay for services under the IDEA. The notice must include a statement that the refusal to provide consent or the withdrawal of consent will not relieve the ~~district's~~ LEA's responsibility to ensure that all the required IEP services are provided at no cost to the parent. The notice must be written in language understandable to the general public and in the native language of the parent or other mode of communication used by the parent unless it is clearly not feasible to do so.
2. Obtain a one-time written consent from the parent after providing the written notification regarding use of public benefits or insurance before accessing the child's or the parent's public benefits or insurance for the first time. This consent must specify (a) the personally identifiable information that may be disclosed (e.g., records or information about the services that may be provided to a particular child); (b) the purpose of the disclosure (e.g., billing for services); and (c) the agency to which the disclosure may be made (e.g., Medicaid). The consent also must specify that the parent understands and agrees that the public agency may access the child's or parent's public benefits or insurance to pay for services. Such consent may be withdrawn at any time by the parent.
3. If the child on an IEP moves into a new ~~district~~ LEA, the new ~~district~~ LEA responsible for providing a FAPE must provide the parents with written notification regarding use of public benefits or insurance and must obtain consent before accessing the child's or parent's public insurance.

If a ~~district~~ an LEA is proposing to access a parent's private insurance to cover any of the costs associated with the provision of special education and/or related services, the ~~district~~ LEA must ~~get-obtain~~ parental consent each time the ~~district~~ LEA proposes to access private insurance and must inform parents that their refusal to permit the LEA to access private insurance does not relieve that LEA of its responsibility to ensure that all required services are provided at no cost to parents.

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CHAPTER 3: CHILD FIND

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CHAPTER 3: CHILD FIND

The Child Find system involves three basic components leading to the determination of whether ~~or not~~ a student has a disability and requires special education. The components of Child Find are location, identification, and evaluation. This chapter describes location and identification activities. ~~The evaluation process is covered in Chapter 4.~~

See Chapter 4 for more information on the evaluation process.

Section 1. ~~Distriet~~ LEA Responsibility

The ~~distriet~~ LEA is responsible for establishing and implementing an ongoing Child Find system to locate, identify, and evaluate students suspected of having disabilities, ages three (3) through the semester ~~during in which they turn~~ the student turns the age of twenty-one (21) years inclusive, until the day prior to the student's twenty-second (22nd) birthday, who may need special education, regardless of the severity of the disabilities. The ~~distriet~~ LEA is also responsible for coordinating with the Department of Health and Welfare (DHW) regarding the Child Find system for children ages birth through two (2) years. The ~~distriet~~ LEA may appoint an individual to coordinate the development, revision, implementation, and documentation of the Child Find system.

The Child Find system shall include all students ~~who residing or enrolled in within the distriet's~~ LEA geographic boundaries including students who are:

1. enrolled ~~or may be enrolled~~ in the ~~distriet~~ LEA, ~~however, this would not include a student who is placed in that public school by another distriet;~~
2. enrolled in ~~charter and~~ alternative schools;
3. ~~enrolled in charter schools;~~
4. enrolled in homeschool;
5. enrolled in ~~parentally placed~~ private elementary and secondary schools (including religious schools) located in the ~~distriet~~ LEA's geographic boundaries; including out-of-state parentally-placed private school ~~children~~ students with disabilities;
6. not enrolled in elementary or secondary school, including resident ~~children~~ students ages three (3) through five (5);
7. advancing from grade to grade;
8. highly mobile students (such as migrant and homeless students as defined by the McKinney-Vento Homeless Assistance Act ~~[see Glossary]~~); and
9. wards of the state.

Section 2. Locating Students

Locating students who may have disabilities involves coordinating with other agencies and promoting public awareness.

A. Coordination

For infants and toddlers, birth through two (2) years of age, Child Find is provided by the Idaho Infant/-Toddler Program (ITP). Although lead responsibility for the ITP has been designated to the DHW, interagency agreements provide for collaboration and coordination. The ~~district~~ LEA shall use local interagency agreements for efficient use of resources and ease of service accessibility for students and families.

B. Public Awareness

The ~~district~~ LEA shall take and document the necessary steps to ensure that ~~district~~ LEA staff and the general public are informed of the following:

1. the availability of special education services;
2. a student's right to a free appropriate public education (FAPE);
3. confidentiality protections; and
4. the referral process.

This information may be provided through a variety of methods, ~~which may include such as~~ distributing brochures or flyers, including information in school or ~~district~~ LEA publications, disseminating articles and announcements to newspapers, arranging for radio and television messages and appearances, speaking at faculty meetings or ~~district~~ LEA in-services, and making presentations.

Section 3. Identification

The identification component of Child Find includes screening, early intervening through ~~general education interventions~~ ~~a problem-solving process~~, and referral to consider a special education evaluation. The procedural rights under the IDEA are afforded when the student is referred for a special education evaluation by the parent/adult student or the ~~district~~ LEA.

A. Screening

Screening is an informal, although organized, process, of ~~gathering information related to student performance. Screening information may be used for~~ identifying students who are not meeting or who may not be meeting Idaho Content Standards or Idaho Early Learning Guidelines (eGuidelines). A variety of methods may be used to screen students, including performance on statewide assessments, curriculum-based measures, daily work in the classroom, teacher

observations, hearing and vision screeners, developmental milestones, and/or kindergarten readiness measures.

Screening for instructional purposes is not an evaluation. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

Although screening is an important part of the Child Find system, screening cannot be used to delay processing a referral to consider a special education evaluation where immediate action is warranted.

B. Tiered General Education Interventions ~~(Comprehensive Early Intervening Services)~~

~~Under the Local Education Agency (LEA) funding option, early intervening services~~ Tiered general education interventions are services for K-12 students who need additional academic and behavioral support to succeed in the *general education environment*. When a school's screening process reveals that a student ~~or groups of students are~~ is at risk of not meeting the Idaho Content Standards, the general education problem-solving team shall consider the ~~student's~~ students' need for tiered ~~"supported"~~ instructional and/or behavioral interventions ~~in order~~ to help the students succeed. These interventions are referred to as ~~early intervening services or tiered general education interventions, accommodations, and strategies~~. It is important to remember that students who receive ~~early intervening these interventions services~~ are not currently identified as needing special education or related services and do not have a right to FAPE ~~a free appropriate public education. Therefore, the IDEA procedural safeguards are not applicable at this time.~~

~~Districts~~ LEAs shall implement ~~comprehensive-coordinated services~~ tiered general education interventions and activities that involve providing educational and behavioral evaluations, services, and supports. These services may also include professional development for teachers and other staff to enable them to deliver ~~scientifically-based~~ evidence-based academic and behavioral interventions ~~with fidelity, including scientifically research-based literacy instruction, and where appropriate, instruction on the use of adaptive and instructional software.~~ Comprehensive Early Intervening Services (CEIS) Tiered general education interventions should be based on whole-school approaches such as; the three-tiered model, ~~scientifically~~ research-based curriculum and instruction, positive behavior supports, and a response to intervention (RTI) system.

~~If a district chooses to use up to 15% of IDEA Part B funds for CEIS for students in K-12 who are not currently identified as needing special education, but who need additional support in the general education environment, additional requirements may apply that will affect maintenance of effort. In addition, if IDEA Part B funds are used, the district must annually report to the SDE:~~

- ~~1. The number of children receiving CEIS; and~~
- ~~2. The number of children who received CEIS and subsequently received special education services during the preceding two-year period.~~

~~If a district is found to have a significant disproportionate representation in special education, there are additional requirements for use of funds in CEIS. Please see Chapter 10 for more information on CEIS.~~

C. General Education Problem Solving

1. Establishing a Problem-Solving Team

- a. The ~~district~~ LEA shall establish a problem-solving team and a process to plan accommodations and ~~tiered~~ interventions in general education and to ensure that referrals to consider a special education evaluation are appropriate. Team membership is established by the school or the ~~district~~ LEA and ~~would likely shall~~ involve general educators and administrators, and ~~could~~ may include counselors, specialists, and special education personnel. While parent/adult student involvement is valuable and encouraged, the ~~district~~ LEA is not required to include the parent/adult student on the ~~problem-solving~~ team.
- b. When problem solving involves a child three to five (3-5) years of age, the team ~~should~~ shall seek input from family members, ~~child care~~ childcare programs, private preschools, or Head Start Programs, as appropriate. An early childhood problem-solving process needs to consider early childhood environments and the preschool student's need for supported instructional interventions in order for the student to participate in appropriate activities. ~~IDEA Part B funds cannot be used to provide CEIS to preschoolers.~~

2. Referrals to the Problem-Solving Team

- a. Referrals to the problem-solving team may come from a variety of sources including parents, students, other family members, public or private school personnel, agencies, screening programs, or as a result of annual public notice.
- b. Referrals may be made for ~~a variety of reasons dealing with~~ academic and/or behavioral concerns. ~~and may involve, but are not limited to, teaching strategies, material accommodations, social skills training, cooperative learning concepts, classroom organization, and scheduling.~~

3. Tiered Interventions

- a. ~~Tiered Interventions~~ interventions in general education or an early childhood environment shall be attempted before a student is referred to an evaluation team, unless the student's performance indicates an evaluation is warranted or a parent makes a request for a referral for a special education evaluation.
- b. ~~Tiered Interventions~~ interventions shall be of sufficient scope and duration to determine the effects on the student's educational performance and should be clearly documented.
- c. Documentation of the ~~student's response to tiered~~ success or failure of accommodations and interventions provided shall be reviewed and discussed by the problem-solving team.

4. Problem-Solving Team Decisions Following General Education Intervention

- a. ~~Based on a review of data and information presented by the referring party and others, the team has several decision options. In the case of a preschool student, data and information shall be gathered and reviewed from such settings as child care programs, private preschools, Head Start Programs, or the home.~~ Following an intervention, the problem-solving team shall review progress monitoring data from the intervention and other relevant information to determine what action is warranted. The team considers a variety of options, including whether to:
- 1) continue the general education intervention because the student is making adequate progress but needs more time to reach goals;
 - 2) ~~discontinue the general education intervention because the student has met their intervention goals;~~
 - 3) ~~modify~~ ~~continue~~ the intervention ~~in a modified form~~ to better meet student needs;
 - 4) explore services or programs outside of special education (such as Title I of the Elementary and Secondary Education Act, including English language programs; Section 504 accommodations; counseling); ~~and/or~~
 - 5) make a referral to consider a special education evaluation.

In the case of a preschool student, data and information shall be gathered and reviewed from such settings as childcare programs, private preschools, Head Start Programs, or the home.

Although problem-solving activities are an important part of the system, they cannot be used to delay processing a referral for consideration of a special education evaluation where immediate action is warranted. Either a parent or ~~an LEA a public agency~~ may initiate a request for an initial evaluation. If a parent initiates a referral for a special education evaluation, the evaluation cannot be delayed or denied due to the ~~child~~ student not completing the general education intervention process.

Section 4. Referral to Consider a Special Education Evaluation

A. Evaluation Team

The evaluation team is the group of ~~people~~ individuals established by the IDEA ~~responsible that has the responsibility~~ for making decisions regarding evaluation, assessments, and eligibility. The composition of the evaluation team will vary depending on the nature of the student's suspected disability and other relevant factors ~~but must include qualified professionals and the parent of the student/adult student~~. The evaluation team shall include the same membership (although not necessarily the same individuals) as the IEP team and other professionals as needed to ensure that appropriate, informed decisions are made.

~~Unlike an IEP team, an~~ An evaluation team has the flexibility of conducting business with or without a meeting. The case manager can gather input from evaluation team members in a variety of ways. The parent/adult student shall be included in the evaluation team and shall be given the opportunity to indicate whether he or she wishes the team to hold a meeting with all members attending.

B. Referral to Consider a Special Education Evaluation

The procedure for ~~handling referrals~~ a referral to consider a special education evaluation for students suspected of having a disability includes the following:

1. Unless immediate action is warranted and documented, a referral to consider a special education evaluation is sent to the evaluation team *after* the problem-solving team has determined:
 - a. the student's response to research-based interventions in general education (or age-appropriate activities for preschool) has not resulted in adequate progress; ~~and~~
 - b. language and cultural issues are not the ~~main source of~~ primary factors in the student's academic or behavioral discrepancy from peers.; ~~and~~
 - c. a lack of appropriate instruction in reading and/or math is not the primary factor in the student's academic or behavioral discrepancy from peers.
2. A *Referral to Consider a Special Education Evaluation/Reevaluation* form shall be completed.
3. Procedural safeguards are activated when a referral is made to consider a special education evaluation. If the referral came from someone other than the parent/adult student (~~see Glossary~~) the parent/adult student shall be notified. In either case, the parent/adult student shall be provided ~~with~~ a copy of the *Procedural Safeguards Notice*. At the same time, the parent/adult student shall be afforded an opportunity to provide input regarding the need for and scope of the initial evaluation, including the opportunity to hold a meeting if desired.
4. The evaluation team (including the parent/adult student) reviews all available records, including family and health history, past school experiences, the results of general education interventions, and previous assessments and evaluations. The evaluation team shall decide what additional assessments, if any, are needed. This review and determination process can take place at a face-to-face meeting of the evaluation team or through an alternate format, unless the parent/adult student desires that a meeting be held.
 - a. If the evaluation team determines that an evaluation is warranted, written notice shall be provided to the parent/adult student describing the proposed evaluation and written consent shall be obtained from the parent/adult student.
 - b. If the evaluation team determines that an evaluation is not warranted at this time, the team ~~should seek other avenues for services~~ may consider meeting the student's needs through other means, such as tiered systems of support, research-based curriculum and instruction, individualized positive behavior supports, or an evaluation under Section 504 of the Rehabilitation Act of 1973 ~~to meet the student's needs~~. The person initiating the referral, if other than the parent/adult student, may be informed as to why the evaluation is not being conducted. Written notice of the ~~district's~~ LEA's refusal to evaluate a student for special education services shall be provided to the parent/adult student when ~~he or she makes~~ a referral for a special education evaluation ~~was is made~~ and the ~~district~~ LEA determines that the evaluation is not warranted.

~~Note: Districts are prohibited from requiring that a student obtain a prescription for a substance~~

~~covered by the Controlled Substances Act as a condition of attending school, receiving an evaluation, or receiving services under the IDEA.~~

See Chapter 4 for more information on evaluation and eligibility.

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CHAPTER 4: EVALUATION AND ELIGIBILITY

~~Chapter 3 discusses Child Find procedures used to locate and identify students with suspected disabilities. This chapter contains the requirements for the special education evaluation and eligibility process, from referral to consider a special education evaluation through to the determination of eligibility.~~ This chapter contains the requirements for completing a special education evaluation from a referral to consider a special education evaluation through the determination of eligibility for special education services. The Idaho ~~State~~ Department of Education has provided State ~~Eligibility Criteria~~ eligibility criteria for special education services ~~for eligibility~~ consistent with the IDEA for ~~district~~ LEAs to use ~~when~~ ~~while~~ determining eligibility.

See Chapter 3 for more information on Child Find procedures used to locate and identify students with suspected disabilities.

Section 1. Evaluation Team

The evaluation team is a group of people outlined by IDEA ~~with the responsibility to make who~~ make decisions regarding evaluation, assessments, and eligibility. ~~This team includes the same membership as the individualized education program (IEP) team (although not necessarily the same individuals) and other qualified professionals as needed to ensure that appropriate and informed decisions are made.~~ The specific composition of the evaluation team ~~reviewing existing data~~ will vary depending upon the nature of the student's suspected disability and other relevant factors. ~~This tailored composition helps ensure that decisions are both appropriate and well-informed.~~ The parent/adult student is a member of the evaluation team and shall be ~~provided given~~ an opportunity to provide input and participate in making team decisions. The evaluation team may ~~conduct its~~ review existing data and/or make an eligibility decision without a meeting unless the parent/adult student requests that a meeting be held. However, all required team members must participate in the evaluation and eligibility process.

Team Membership Requirements:

1. Parent/adult student;
2. District representative;
3. General education teacher;
4. Special education teacher; and
5. Other qualified professionals including individual(s) who can interpret assessment results and instructional implications.

The following qualified professionals are required team members when considering the following disability categories:

	ASD	EBD	Intellectual Dis.	Language Imp.	Multiple Dis.	Other Health Imp.	Specific Learning Dis.	Speech Imp.
School Psychologist	x	x	x		x	x*	x	

Speech Language Pathologist	x			x			x**	x
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Additional Team Membership Requirements

~~The determination of whether a student suspected of having a specific learning disability shall be made by the student's parents and a team of qualified professionals, which shall include:~~

1. *The evaluation team for making an educational determination of ADHD when considering Other Health Impairment shall include a school psychologist.
2. The evaluation team for identifying a Specific Learning Disability shall include:
 - a. the student's ~~regular~~ general education teacher; or if the ~~child~~ student does not have a ~~regular~~ general education teacher, a ~~regular~~ general education classroom teacher qualified to teach a ~~child~~ student of his or her age; ~~and~~
 - b. a school psychologist ~~is a required member of the team;~~ and
 - c. **when considering oral expression and/or listening comprehension as areas of concern under SLD, a speech language pathologist is a required member ~~who may collaborate with or replace the school psychologist as the professional required to conduct and interpret evaluative examinations.~~

See Chapter 5 for more information about IEP Team membership, roles, and responsibilities.

Section 2. Purpose of an Evaluation

The purpose of the evaluation process is to determine the eligibility of a student for special education services. This pertains to both initial determination and ~~three-year review of eligibility, or re-evaluation~~ reevaluation. ~~It is also a process for gathering important information about a student's strengths and special education and related services needs.~~ It is also a process for gathering information about a student's strengths and needs to inform the IEP team in determining special education and related service needs. An evaluation process shall include a variety of assessment tools and strategies to gather relevant functional, developmental, social, emotional, behavioral, and academic information about the student, including information provided by the parent.

A. Definitions

Although the terms “evaluation” and “assessment” are often interchanged, there are significant differences between the meanings of the two terms. ~~In an effort to clarify, the~~ The terms are defined as follows:

1. Evaluation refers to procedures used to determine whether a ~~child~~ student has a disability

and the nature and extent of the special education and related services that the ~~child~~ ~~student~~ needs.

2. Assessment is integral to the evaluation process and ~~includes-refers to~~ the formal and informal processes of systematically observing, gathering, and recording credible information to help answer evaluation questions and make decisions. A test is one method of obtaining credible information. ~~within the assessment process. Tests may be standardized or non-standardized, criterion-referenced (e.g. curriculum-based measures), or norm-referenced, and usually elicit responses from students to situations, questions, or problems to be solved.~~ Assessment data may also include observations, interviews, medical reports, data regarding the effects of general education accommodations and interventions, and other formal or informal data.

~~The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.~~

B. ~~Evaluation Components~~ Initiation of an Evaluation

A parent or a public agency may initiate a referral to consider a special education evaluation to determine whether an evaluation for special education is warranted. ~~request for an initial evaluation to determine eligibility.~~ If warranted, ~~The the~~ ~~district~~ LEA shall conduct a ~~full,~~ comprehensive and ~~individual~~-individualized initial evaluation before determining eligibility and prior to the provision of special education and related services. ~~If an evaluation is not warranted, written notice shall be provided to parent/adult student detailing the basis for the decision. are provided to a student suspected of having a disability. A parent or a public agency may initiate a request for an initial evaluation to determine eligibility.~~

See Chapter 3 for more information about a referral to consider a special education evaluation.

~~To be eligible for services under the IDEA, a student must have a disability that:~~

1. ~~meets the Idaho state disability criteria;~~
2. ~~adversely affects educational performance; and~~
3. ~~results in the need for specially designed instruction, and related services.~~

~~In addition, the information from the evaluation shall be used to consider the following:~~

1. ~~the nature and extent of special education and related services needed by the student in order to participate and progress in the general education curriculum, or curriculum aligned to the Idaho Content Standards, or the Idaho Early Learning Guidelines (eGuidelines); and~~
2. ~~the least restrictive environment (LRE) for the student.~~

~~The above information also pertains to evaluations for determining Part B eligibility for children transitioning from the Infant/Toddler Program (ITP).~~

Section 3. Written Notice, ~~and~~ Consent for Assessment, and Timelines

Written notice shall be provided and informed consent shall be obtained before assessments are administered to a student as part of an evaluation.

A. Written Notice Requirements

Written notice shall be provided to the parent/adult student within a reasonable amount of time in any of the following instances:

1. prior to conducting any new assessments;
2. to explain the LEA's refusal to initiate assessment or evaluation; and
3. when the evaluation team determines that new assessments are not required for an evaluation or to make an eligibility determination.

~~Written notice shall be provided to the parent/adult student within a reasonable time before the district proposes to initiate the evaluation or re-evaluation/reevaluation of a student.~~ Written notice shall be in words understandable to the general public. It shall be provided in the native language or other mode of communication normally used by a parent/adult student unless it is clearly not feasible to do so.

If the native language or other mode of communication is not a written language, the ~~district~~ LEA shall take steps to ensure: ~~the following:~~

1. the notice is translated orally or by other means in the native language or other mode of communication;
2. the parent/adult student understands the content of the notice; and
3. there is written evidence that the above two requirements have been met.

The written notice shall include ~~the following:~~

1. a description of the evaluation ~~or reevaluation~~ proposed or refused by the district;
2. an explanation of why the district proposes ~~or refuses~~ to assess or evaluate ~~or reevaluate~~ the student;
3. a description of any other options the district considered and the reasons why those options were rejected;
4. a description of each assessment, ~~procedure, test,~~ record, or report that the district used as a basis for the proposed or refused evaluation ~~or reevaluation~~;
5. a description of any other factors relevant to the evaluation ~~or reevaluation~~;
6. a statement ~~that the of the~~ parent/adult ~~student student's~~ ~~has~~ special education rights and how to obtain a copy of the *Procedural Safeguards Notice* (Note: If this is the initial evaluation, the parent/adult student must be provided ~~should get~~ a copy of the ~~procedural safeguards~~ *Procedural Safeguards Notice* ~~with the initial notice of~~ when initiating the

referral to consider a special education evaluation process ~~special education evaluation~~);
and

7. sources for parents to contact ~~in obtaining~~ for assistance in understanding the *Procedural Safeguards Notice*.

~~Written notice shall be provided to the parent/adult student within a reasonable time in the following instances:~~

- ~~1. to conduct any additional assessments and review initial information as part of the initial evaluation or reevaluation;~~
- ~~2. to explain refusal to initiate assessment; and~~
- ~~3. when the evaluation team determines that additional assessments are not required.~~

~~See Chapter 11 for more information on written notice.~~

B. Consent Requirements

Informed consent in special education is the process of ensuring that parents have the information they need to make a knowledgeable decision about a proposed activity for their student.

1. ~~Definition of Consent.~~ Consent means that the parent/adult student:
 - a. has been fully informed in his or her native language or other mode of communication of all information relevant to the assessment ~~and/or evaluation~~ for which consent is sought;
 - b. understands and agrees in writing (as indicated by signature) to the activities described; and
 - c. understands that granting ~~of~~ consent is voluntary and may be revoked in writing at any time ~~before the an~~ assessment ~~and/or evaluation~~ is completed. However, once ~~the an~~ assessment ~~and/or evaluation~~ has been completed, revocation of consent cannot be used to ~~have the assessment disregarded~~ disregard the results of assessments already administered.
2. Consent for initial evaluation
 - a. Informed written consent shall be obtained from the parent/adult student before the ~~district LEA~~ conducts ~~assessments as a part of~~ an initial evaluation of the student to determine whether the student qualifies for special education as a student with a disability. Written consent is required for initial evaluation even if the team determines no new assessments are necessary and the team is using only existing information to make the eligibility determination. ~~if he or she qualifies as a child with a disability;~~
 - 1) If, after written consent has been obtained, the team determines the need to assess another area, written consent shall be sought for that area. The ~~60~~forty-five (45) school day timeline does not change based on the new consent date.

The evaluation shall be completed within ~~60~~ forty-five (45) school days of the date that the original written consent was received by the LEA.

- b. Parental consent for initial evaluation ~~should~~ shall not be construed as consent for initial provision of special education and related services;
- c. The ~~school district~~ LEA shall make and document reasonable ~~documented~~ efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the ~~child~~ student has a disability and to identify the educational needs of the ~~child~~ student. If a parent refuses consent, the ~~district~~ LEA does not violate its obligation to provide FAPE if it declines to pursue the evaluation. If the parent does not provide consent, the LEA ~~district~~ may offer an ~~SDE~~ Idaho Department of Education facilitated meeting; or mediation, or request a due process hearing to challenge the decision.

See Chapter 13 for more information about dispute resolution processes.

- d. If the ~~child~~ student is a ward of the State and is not residing with the ~~child's~~ student's parent, the ~~district~~ LEA is not required to obtain informed consent from the parent for an initial evaluation to determine eligibility if:
 - 1) despite reasonable efforts to do so, the ~~district~~ LEA cannot locate the parent;
 - 2) the rights of the parents of the ~~child~~ student have been terminated in accordance with Idaho law; or
 - 3) the rights of the parent to make educational decisions have been subrogated by a judge in accordance with Idaho law and consent for initial evaluation has been given by an individual appointed by the judge to represent the ~~child~~ student.
- ~~e. If a district is using any data gathered during general education interventions for a student suspected of being a student with a disability, and that data may be used for a later eligibility determination, the district shall promptly request consent to evaluate the student.~~

C. Consent for Reevaluation

- 1. Written consent shall be sought for reevaluation that requires new assessments. Reevaluation consisting solely of review of existing data does not require written consent. This includes a review of the student's educational files/records. Written notice shall be provided when proposing to complete a reevaluation using only existing information.
- 2. Informed parental consent for a reevaluation ~~need not be obtained~~ is not required if the ~~public agency~~ LEA ~~can demonstrate~~ demonstrates through documentation and documents that it made reasonable efforts to obtain consent and the child's parent has failed to respond.

D. When Consent Is Not Required

Parental consent is *not* required for:

- 1. the review of existing data as part of an evaluation ~~or reevaluation~~;

2. ~~the administration of a test or other~~ an assessment that is administered to all students, unless consent is required ~~for of parents of~~ all students;
3. teacher or related service provider observations, ongoing classroom evaluations, or ~~criterion-referenced tests~~ measures that are used to determine the student's progress toward achieving goals on the IEP; and/or
4. screening by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation, which may include group or individual curriculum-based or norm-referenced measures.

E. Refusing Consent or Failure to Respond to a Request for Consent

The parent/adult student can refuse consent for assessment(s).

For an initial evaluation, if consent is refused or the parent/adult student fails to respond, the student cannot be ~~assessed~~ evaluated. However, the ~~district~~ LEA may request ~~SDE-Idaho~~ Department of Education facilitation, mediation, or a due process hearing. If the mediation results in consent to assess, or if a hearing officer's decision indicates that ~~assessment~~ evaluation is appropriate and there is no appeal, then the student may be ~~evaluated~~ -assessed. However, the ~~district~~ LEA does not violate its obligations to provide FAPE if it declines to pursue the evaluation. Consent for the initial evaluation shall not be construed as consent for the initial provision of special education services should the student be deemed eligible.

~~If a parent of a child who is homeschooled or placed in a private school by the parents at their own expense does not provide consent for initial evaluation or reevaluation,~~ If a student is homeschooled or placed in a private school by the parents at their own expense, and the parent does not provide consent for evaluation, or the parent fails to respond to a request to provide consent, the ~~district~~ LEA may not use ~~SDE Idaho~~ Department of Education mediation or due process procedures in order to gain consent and the ~~district~~ LEA is not required to consider the ~~child~~-student eligible for services.

Note: An ~~district~~ LEA shall not use a parent's refusal for consent to one service or activity to deny the parent or student any other service, benefit, or activity. In the case of assessment, this means that a parent/adult student's refusal of consent to assess a particular area cannot be used by the LEA to refuse assessment in other areas. The student's evaluation team should work to reach consensus on the components required to complete a comprehensive evaluation.

See Chapter 12 ~~11~~ for more information on consent and reasonable efforts.

F. Timeline

The time between receiving written consent for initial assessment and/or evaluation and eligibility determination cannot exceed ~~sixty (60) calendar~~ forty-five (45) school days, ~~excluding periods when regular school is not in session for five (5) or more consecutive school days.~~ In unusual circumstances, an extension of the ~~sixty (60) calendar~~ forty-five (45) school day ~~period~~ timeline may apply for the purpose of initial assessment. These circumstances may include the following:

1. The ~~child-student~~ enrolls ~~in a school~~ in another ~~school-district~~ LEA after the ~~sixty (60) calendar forty-five (45) school~~ day timeline ~~began~~ begins and prior to the determination of by the ~~child's-student's~~ eligibility in the previous ~~school-district~~ LEA. ~~If the new school-district is making sufficient progress in determining eligibility, In such cases, the parent and the school-district LEA may agree in writing to a specific alternative timeline. specific time when the evaluation will be completed.~~
 - a. Assessments shall be coordinated between the student's prior and subsequent schools to ensure prompt completion of the comprehensive evaluation.
2. The parent repeatedly fails or refuses to produce the student for an ~~assessment or~~ evaluation after the ~~district~~ LEA has made reasonable efforts to schedule. ~~an evaluation.~~

The time between eligibility determination and the development and implementation of the IEP ~~cannot shall not~~ exceed thirty (30) calendar days. ~~The implementation of the IEP shall not exceed thirty (30) calendar days from the eligibility determination, unless all parties agree to an extension.~~

For children transferring from ~~Part C, the Infant Toddler Program (ITP), to Part B,~~ eligibility shall be determined and an IEP developed by the child's third (3rd) birthday.

If a child turns three (3) during the summer, ~~is eligible for special education,~~ and does not require Extended School Year (ESY) services, special education and related services may begin in the new school year.

See Chapter 5 for additional information on collaboration with the ITP throughout the transition process.

~~In unusual circumstances, an extension of the sixty (60) day period may apply for the purpose of initial assessment. These circumstances may include the following:~~

- ~~1. The child enrolls in a school in another school-district after the sixty (60) day timeline began and prior to the determination by the child's eligibility in the previous school district. If the new school-district is making sufficient progress in determining eligibility, The parent and district may agree to a specific time when the evaluation will be completed.~~
- ~~2. The parent repeatedly fails or refuses to produce the student for an evaluation after the district has made reasonable efforts to schedule an evaluation.~~

Section 4. Information from Other Agencies or ~~Districts~~ LEAs

Consent for release of information shall be received before the ~~district~~ LEA seeks to obtain information about the student from other agencies, unless otherwise authorized by law. Upon receipt of consent, the case manager will send an *Authorization to Exchange Confidential Information Form* ~~form~~ requesting information to individuals or agencies that have relevant information about the student. A copy of the signed *Authorization to Exchange Confidential Information Form* ~~for release of information shall be included with the letters and a copy~~ shall be retained in the student's confidential file. Sources of this additional information may include

records from health and social service agencies, private preschool programs, legal service agencies, and non-school professionals such as physicians, social workers, and psychologists.

Federal laws and regulations do not require consent for the ~~district~~ LEA to:

1. request information from other ~~districts~~ LEAs that the student has attended; or
2. send information to other ~~districts~~ LEAs in which the student intends to enroll.

~~For children transferring from the ITP, eligibility shall be determined and the IEP developed by the date that the child turns three (3) years of age. See Chapter 5 for additional information on collaboration with the ITP throughout the transition process.~~

Section 5. Evaluation and Eligibility Determination Procedures

A. Areas to Assess

The student shall be assessed in all areas ~~of suspected need related to the suspected disability,~~ which includes areas such as functional, ~~behavioral,~~ developmental, and academic skills needed to participate and progress in the general education curriculum. If needed, qualified personnel shall conduct ~~an individual assessment of assistive technology needs, including~~ a functional evaluation in the individual's customary environment ~~to determine the need for assistive technology.~~ The evaluation of each student with a suspected disability shall be ~~full and~~ individualized and sufficiently comprehensive to identify all of the student's suspected special education and related service needs whether or not commonly linked to the disability category in which the student may be classified. ~~For youth with IEPs, no later than age sixteen (16), appropriate transition assessments shall be conducted.~~ Beginning with the IEP to be in effect when a student is sixteen (16) years old (or younger if determined appropriate by the IEP team), appropriate transition assessments shall be conducted.

Evaluation teams shall be especially mindful of cultural and linguistic differences during the evaluation and eligibility process. ~~Caution is advised in the selection of informal or formal assessments that are nonbiased, administration of assessments, interpretation, and application of outcomes in order to appropriately identify culturally or linguistically diverse students for special education services.~~ Teams should use caution when choosing assessments, whether informal or formal, to ensure the assessments are unbiased. Attention should be given to how the assessments are administered, interpreted, and applied to accurately identify culturally or linguistically diverse students who may need special education services.

B. Determination of Needed Initial or Reevaluation Data

As part of an initial evaluation or reevaluation, the evaluation team shall review existing evaluation data regarding the student including:

1. assessments and information provided by the parent/adult student concerning the student, including ~~medical reports, clinical assessment or evaluation data, and other information from non-school providers;~~
2. current classroom-based assessments and observations, and/or data regarding the student's response to scientific, ~~evidence-based research-based~~ interventions;

3. observations by teachers and related service providers; and
4. results from statewide and **districtwide** ~~district-wide~~ testing.

Based on that review, and input from the parent/adult student, the evaluation team will decide on a case-by-case basis what additional data, if any, are needed to determine:

1. whether the student meets **State** eligibility criteria as a student with a disability ~~for special education~~;
2. the student's present levels of academic and functional performance, including academic achievement and related developmental needs of the student;
3. whether the student needs specially designed instruction; or
4. whether any additions to the special education and related services are needed to enable the student to:
 - a. meet the measurable annual goals set out in the student's IEP; and
 - b. be involved in and progress in the general education curriculum (for preschool students, to participate in **age-appropriate** activities).

If the evaluation team determines **additional new** assessments are not required for the purpose of determining whether the student meets eligibility criteria during an **initial** evaluation ~~or a reevaluation~~, the **district LEA** shall provide written notice to the parent/adult student of the decision and the reasons for that decision.

The parent/adult student shall also be informed of his or her right to request assessments to determine eligibility and to determine the **child's-student's** educational needs. The **district LEA** will provide written notice if a parental request for additional assessment is denied. **In the case of an initial evaluation, written consent to conduct an initial evaluation for special education must be obtained, whether or not new assessments are required.**

C. Assessment Procedures and Instruments

The **district LEA** shall ensure the evaluation or reevaluation meets the following requirements:

- ~~1. The child shall be assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, motor abilities, and transition needs.~~
- ~~2. Assessments and other materials shall be selected and administered so as not to be discriminatory on a racial or cultural basis.~~
- ~~3. Assessments and other materials shall be provided and administered in the student's native language, and in the form most likely to yield accurate information on what the student knows and can do academically, behaviorally, developmentally, and functionally unless it is not feasible to provide or administer. Attempts to provide a qualified examiner in the student's native language or mode of communication shall be documented.~~
- ~~4. In all direct contact with a student, the language normally used by the student in the home~~

~~or learning environment shall be used. For an individual with blindness or deaf or hard of hearing, or for an individual with no written language, the mode of communication is that which is normally used by the individual (e.g., sign language, Braille, or oral communication).~~

- ~~5. Materials used to assess a student with limited English proficiency shall be selected and administered to ensure that they measure the extent to which the student has a disability and needs special education, rather than solely measuring the student's English language skills.~~
- ~~6. A variety of assessment tools and strategies shall be used to gather relevant academic, developmental, behavioral, and functional information about the student, including information provided by the parent/adult student and information related to enabling the student to be involved in and progress in the general education curriculum (or, for a preschooler, to participate in age appropriate activities).~~
- ~~7. Assessments are used for the purposes for which the assessments or measures are valid and reliable.~~
- ~~8. Assessments shall be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests.~~
- ~~9. Assessments and other evaluation materials shall include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient or standard score.~~
- ~~10. Assessments shall be selected and administered to ensure that if a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (unless those are the factors that the test purports to measure).~~
- ~~11. No single measure or assessment may be used as the sole criterion for determining whether a student is a student with a disability and for determining an appropriate educational program for the student.~~
- ~~12. The district shall use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors.~~
- ~~13. The district shall provide and use assessment tools and strategies that produce relevant information that directly assists persons in determining the educational needs of the student.~~
- ~~14. All services and assessments shall be provided at no expense to the parent/adult student.~~
- ~~15. Assessments of children with disabilities who transfer from one public agency to another public agency in the same school year are coordinated with the child's prior and~~

~~subsequent schools to ensure prompt completion of the full evaluation.~~

~~16. The evaluation shall be full and individualized and sufficiently comprehensive to identify all of the child's special education and related service needs, whether or not commonly linked to the disability category.~~

1. The evaluation shall be individualized and sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the suspected disability category. This includes, if appropriate, assessment of health, vision, hearing, social and emotional skills, general intelligence, communication, motor skills, and transition needs.
2. All assessments shall be provided at no expense to the parent/adult student.
3. The LEA shall provide and use assessment tools and strategies that produce relevant information that directly assists the evaluation team in determining the educational needs of the student.
4. The LEA shall use technically sound instruments that are valid and reliable and are tailored to measure specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient or standard score.
5. A variety of assessment tools and strategies shall be used to gather relevant academic, developmental, behavioral, and functional information about the student, including information provided by the parent/adult student and information related to enabling the student to be involved in and progress in the general education curriculum (or, for a preschooler, to participate in age-appropriate activities).
6. No single measure or assessment may be used as the sole criterion for determining whether a student is a student with a disability and for determining an appropriate educational program for the student.
7. Assessments shall be administered by qualified and knowledgeable personnel in accordance with any instructions provided by the producer of the tests.
8. Assessments and other materials shall be selected and administered so as not to be discriminatory on a racial or cultural basis.
9. Materials used to assess a student with limited English proficiency shall be selected and administered to ensure that they measure the extent to which the student has a disability and needs special education, rather than solely measuring the student's English language skills.
10. Assessments and other materials shall be provided and administered in the student's native language and in the form most likely to yield accurate information on what the student knows and can do academically, behaviorally, developmentally, and functionally unless it is not feasible to provide or administer. Attempts to provide a qualified examiner in the student's native language or mode of communication shall be documented.
11. In all direct contact with a student, the language normally used by the student in the home or learning environment shall be used. For an individual with blindness/low vision, for an individual who is deaf or hard of hearing, or for an individual with no written language,

the mode of communication is that which is normally used by the individual (e.g., sign language, Braille, or oral communication).

12. Assessments shall be selected and administered to ensure that if a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills unless those are the factors that the test purports to measure.

D. Eligibility Determination

Upon completion of the student's initial evaluation or reevaluation, the evaluation team will consider the findings and determine whether the student meets or continues to meet State eligibility criteria ~~found in Section 7 of this chapter~~. The evaluation team will draw upon information from a variety of sources, such as norm-referenced, standardized tests; parent/adult student input, teacher input, ~~physical condition~~ health history, social or cultural background; adaptive behavior; behavioral performance; and functional assessments to interpret evaluation data and determine eligibility.

See Section 7 of this chapter for more information on State eligibility criteria.

Special Rule for Eligibility Determination

A student cannot be identified as a student with a disability if the primary reason for such a decision is:

1. lack of appropriate instruction in reading, including the essential components of reading instruction as defined by the Elementary and Secondary Education Act—phonemic awareness; phonics; vocabulary development; reading fluency, including oral reading skills; and reading comprehension strategies;
2. lack of appropriate instruction in math; or
3. Limited English Proficiency.

Related Services

Related services ~~means~~ include transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and include speech-language pathology and audiology services, interpreting services, psychological services, and physical and occupational therapy. Related services also include counseling services, orientation and mobility services, school health services, social work services, and parent counseling and training.

An IEP team may determine that a student found eligible for special education has a need for a related service. However, if a student with a disability needs only a related service and not special education, then the student is not eligible for the related service. ~~unless it is considered to be special education under State standards, as in the case of speech therapy and language therapy.~~ In Idaho, speech and/or language services may be considered a special education

service.

E. The Eligibility Report

The evaluation team shall prepare an Eligibility Report and provide a copy of the report to the parent/adult student.

The Eligibility Report shall include:

1. names and positions of all evaluation team members;
2. information regarding the student's need for specially designed instruction (special education and related services);
3. confirmation and supporting data that the disability is not primarily due to lack of appropriate instruction in reading, including the essential components of reading — phonemic awareness; phonics; vocabulary development; reading fluency, including oral reading skills; and reading comprehension strategies; or math;
4. information about how the student's disability adversely affects his or her educational performance;
5. ~~all~~ data on the student for all areas of suspected disability as required in the State eligibility criteria ~~Eligibility Criteria for the areas of suspected disability~~;
6. confirmation and supporting data that the student's learning difficulties are not primarily due to Limited English Proficiency;
7. the date of the eligibility determination; and
8. the name and position of all those administering assessments. ~~;~~ and
9. ~~in~~ In the case of Specific Learning Disability eligibility determination, the eligibility report shall include certification in writing that the report reflects each member's conclusions (agreement). ~~;~~ and ~~in~~ In the case of team member disagreement with the conclusions, a written statement shall be attached to the eligibility report presenting the dissenting team member's conclusions.

Section 6. Reevaluation and Continuing Eligibility

A. Reevaluation Requirements

The LEA shall ensure that a comprehensive, individualized reevaluation of each student with a disability is conducted in accordance with all the required evaluation procedures outlined in this chapter.

A reevaluation shall occur at least once every three (3) years. The evaluation team shall complete the reevaluation consideration process and the associated form to determine whether new assessment(s) are needed for the reevaluation. The evaluation team may agree that new assessments are not required to determine eligibility. Written notice shall be provided to the parent/adult student stating this decision and the reasons for it. The parent/adult student shall be notified of the right to request new assessment(s) as part of the reevaluation. An updated

Eligibility Report documenting all eligibility criteria shall be completed by the reevaluation due date to establish and document continuing eligibility.

The LEA shall ensure that a reevaluation is conducted more frequently than every three (3) years if it is determined that the education or related service needs of the student, including present levels of academic achievement and functional performance, warrant a reevaluation; or the parent/adult student or the student's teacher requests a reevaluation.

A reevaluation may not occur more than once per year unless the parent/adult student and the LEA agree otherwise. If the parent makes a request within the year and the LEA does not agree, the LEA shall send written notice of refusal.

~~A reevaluation:~~

- ~~1. Shall occur at least once every three (3) years unless the parent/adult student and the district agree in writing that a three (3) year reevaluation is not necessary; and~~
 - ~~a. However, an updated Eligibility Report, documenting all eligibility criteria, shall be completed by the reevaluation due date to establish and document continuing eligibility;~~
- ~~2. a reevaluation is not required more than once per year unless the parent/adult student and the district agree otherwise. If the parent makes a request within the year and the district does not agree, the district shall send written notice of refusal.~~

~~The district shall ensure a reevaluation is conducted more frequently than every three (3) years if:~~

- ~~1. it is determined that the education or related service needs, including academic achievement and functional performance, of the student warrants a reevaluation; or~~
- ~~2. if the parent/adult student or the student's teacher requests a reevaluation.~~

B. Reevaluation Prior to Discontinuation

1. The LEA ~~district~~ shall evaluate a student with a disability before the team determines that the student is no longer eligible for special education.
 - a. If a parent/adult student refuses consent for assessment, an evaluation may be completed using existing information.
2. Reevaluation is not required in the following two circumstances:
 - a. before the ~~discontinuation termination~~ of a ~~child's~~ student's eligibility due to graduation, if the student meets comparable academic requirements that are equally as rigorous as those required of nondisabled students and receives a regular diploma;
 - b. before the discontinuation of a student's eligibility due to the student reaching maximum age (i.e., the student has reached the end of the semester in which he or she turns twenty-one (21) years of age).

- 1) Note: Although a reevaluation is not required in these two cases, the ~~LEA district~~ shall provide the student with a summary of his or her academic achievement and functional performance, including recommendations on how to assist the student in meeting his or her ~~post-school~~ post-secondary goals.

See Chapter 7 for more information about the Summary of Performance.

C. Informing the Parent/Adult Student

~~Approximately one month before~~ Before the reevaluation is due, contact shall be made with the parent/adult student informing him or her: ~~that:~~

1. ~~that~~ the reevaluation will be ~~scheduled conducted; within the month; unless the district and parent/adult student agree it is unnecessary;~~
2. ~~whether~~ of the decision to conduct or not conduct new assessments for the reevaluation with appropriate written notice and/or written consent based on this decision; and
3. ~~that~~ input will be sought from the parent/adult student.

~~Note: The IDEA allows the process of reviewing existing data and determining what, if any, additional assessments are required without a meeting.~~

D. Nature and Extent of Reevaluation

Before any ~~reassessment~~ reevaluation of the student, the evaluation team will determine the nature and extent of the student's needs by reviewing existing data ~~using the reevaluation consideration process and the associated form.~~ See Section 5 of this chapter for more information regarding the determination of needed data.

Based on this review, the evaluation team will proceed with one of the following options:

1. No ~~New Assessments~~ or Additional Information Needed
 - a. If the evaluation team decides that no ~~new~~ or additional assessments are needed to determine whether the student continues to be eligible for special education services, the ~~district-LEA~~ shall provide written notice to the parent/adult student of ~~this decision and~~ his or her right to request further assessment.
 - b. If the parent/adult student requests ~~an-new~~ or additional ~~assessments assessment~~ to determine whether the student continues to meet criteria for special education services under the IDEA, then the ~~LEA is required to district-shall~~ conduct the ~~assessments assessment~~.
 - c. If the parent/adult student requests an additional assessment for reasons other than eligibility, such as admission to college, then the ~~district-LEA~~ shall consider the request and provide written notice of its decision.
2. ~~Additional-New~~ Assessments Needed
 - a. ~~Based on recommendations from~~ If the evaluation team ~~determines that new assessments are needed,~~ the ~~district-LEA~~ will seek consent to administer the needed assessments and provide the parent/adult student with written notice regarding

- proposed assessments. If the parent/adult student fails to respond after the ~~district~~ LEA has ~~made~~ ~~taken~~ reasonable ~~measures~~ efforts to obtain consent for assessments as part of a reevaluation, the ~~district~~ LEA may proceed with the assessments. The ~~district~~ LEA shall maintain documentation of its ~~measures~~ efforts to seek consent.
- b. See Section 3B of this chapter for a definition of reasonable ~~measures~~ efforts.
 - c. If the parent/adult student denies consent to reassess, ~~no new assessments can be conducted~~ ~~the student cannot be assessed~~. However, an evaluation may be conducted using existing information.
 - d. ~~However, the~~ The ~~district~~ LEA may request ~~SDE~~ Idaho Department of Education mediation or a due process hearing. If the mediation results in consent to assess, or if a hearing officer's decision indicates the assessment is appropriate and there is no appeal, then the student may be assessed. All reevaluation procedures shall be provided at no cost to the parent/adult student.

Informed parental consent for a reevaluation need not be obtained if the ~~district~~ LEA can demonstrate through documentation that it made reasonable efforts to obtain consent and the parent/adult student has failed to respond.

E. Eligibility Report for Reevaluations

The evaluation team shall consider evaluation findings and determine whether the student continues to meet criteria for special education services.

~~The evaluation team is required to prepare an Eligibility Report detailing how review of existing data demonstrates that the student continues to meet eligibility requirements even if no new assessments were conducted.~~ The evaluation team shall prepare an eligibility report detailing the review of existing data, the results of new assessments, and a summary demonstrating how the student continues to meet eligibility criteria. The eligibility report shall be completed even if no new assessments were conducted. The eligibility report shall address each required eligibility component and include results of previous assessments if they are being used to determine eligibility.

Refer to Section 5 of this chapter for eligibility requirements.

Section 7. State Eligibility Criteria

The ~~LEA~~ ~~district~~ ~~will~~ shall use the eligibility criteria and assessment procedures set forth ~~by the SDE Idaho Department of Education~~ in this Manual ~~when for placement in~~ determining eligibility for special education. This section contains a the definition and the eligibility criteria for each specific disability that shall be used to determine whether an individual qualifies as a student with a disability in need of special education.

All disabilities except ~~Specific Learning Disability (SLD)~~ and Developmental Delay (DD) are applicable for students ~~from the age of three (3) through the semester in which the student attains the age of twenty-one (21) years day before the student's twenty-second (22nd) birthday. their twenty-first (21) years of age.~~ For Specific Learning Disability, students must be legal

~~kindergarten age through twenty-one (21) years.~~ Only students ages three (3) through nine (9) can be identified in the DD category. ~~Use of the DD category is optional for the district.~~ If the ~~district~~ LEA elects to use the DD category, it applies only to students from age three (3) up until their tenth (10th) birthday. ~~in addition to the criteria outlined in this chapter.~~

A. Three-Prong Test for Eligibility

To demonstrate eligibility for special education services all three of the following criteria shall be met and documented. This is often called the three-prong test for eligibility.

The Eligibility Report shall document each of the following three criteria:

1. the student has a disability according to the established ~~Idaho~~ State eligibility criteria;
2. the student's ~~condition~~ disability adversely affects educational performance; and
3. the student needs specially designed instruction.

Definitions:

~~Meets State Eligibility Criteria Requirements:~~ The ~~state~~ State eligibility requirements for specific disabilities listed in this chapter.

~~Adverse Impact Effect:~~ A determination made by the evaluation team that the student's progress is impeded by the disability to the extent that the student's educational performance measures significantly and consistently below the level of ~~similar-age, grade-level~~ similar-age peers, preventing the student from benefiting from general education. Educational performance refers to the student's performance in academic achievement, developmental, social, emotional, behavioral, and/or and/or functional skills. ~~The phrases "adverse impact" and "adverse effect" are used interchangeably in this Manual and have the same meaning.~~

~~Specially Designed Instruction:~~ Special education is specially designed instruction, provided at no cost to the parents, to meet the unique needs of a student with a disability. Specially designed instruction means ~~adapted, as appropriate to meet the needs of an eligible student, the content, methodology, or delivery of instruction to address the unique needs of the student that result from the student's disability and to ensure access of the child to the general curriculum so that he or she can meet Idaho Content Standards that apply to all students.~~ adapting the content, methodology, or delivery of instruction to address the unique needs of an eligible student that result from the student's disability and to ensure access to the general education curriculum so that the student can meet the Idaho Content Standards that apply to all students.

B. Disability Categories

1. Autism Spectrum Disorder

Definition: An Autism Spectrum Disorder (ASD) is a developmental disability, generally evident in the early developmental period, ~~before age three (3), significantly affecting verbal or nonverbal communication and social interaction, characterized by the following; and adversely affecting educational performance.~~

- a. Persistent deficits in social communication and ~~social~~ interaction across multiple

contexts, currently or by history.÷

- b. Symptoms must be present in the early developmental period, generally before age three (3), but may not ~~become~~ fully manifest until social demands exceed limited capacities; or may be masked by learned strategies in later life.
- c. Other characteristics often associated with ~~autism~~ ASD include, but are not limited to, engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and hyper- or hypo-reactivity to sensory input.
- d. Characteristics vary from mild to severe as well as in the number of symptoms present and are not primarily the result of intellectual disability, developmental delay, or an emotional behavioral disorder.

State Eligibility Criteria for Autism Spectrum Disorder (ASD): An evaluation team will determine that a student is eligible for special education services as a student with ~~autism~~ ASD when all of the following criteria are met:

- a. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted;
- b. The student has a developmental disability, generally evident in the early developmental period, before age three (3), that ~~significantly~~ affects social communication and social interaction;
- c. The student must meet the disability definition (above) of an autism spectrum disorder as determined by an evaluation team ~~to include~~ that includes a school psychologist and a speech-language pathologist. The ~~A~~ team must consider a private evaluation or diagnosis of ASD provided by a parent from a psychiatrist, a physician, or a licensed psychologist as meeting the definition of autism spectrum disorder;
- d. The student's ~~condition~~ disability adversely affects educational performance; and
- e. The student needs specially designed instruction.

2. Visual Impairment Including Blindness or Low Vision

Definition: ~~Visual impairment means an impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness. Partial sight~~ Blindness refers to the prohibition of vision as a channel of learning, regardless of the adaptation of materials. Low vision refers to the ability to use vision as one channel of learning if educational materials are adapted. ~~Blindness refers to the prohibition of vision as a channel of learning, regardless of the adaptation of materials.~~

State Eligibility Criteria for ~~Visual Impairment~~ Blindness or Low Vision: An evaluation team will determine that a student is eligible for special education services as a student with blindness or low vision ~~a visual impairment~~ when all of the following criteria are met:

- a. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted;÷
- b. The student has documentation of blindness or low vision ~~a visual impairment~~, as determined by a qualified professional, including one or more of the following:

- i. Blindness – visual acuity of 20/200 or less in the better eye with the best possible correction at distance and/or near, or visual field restriction of 20 degrees or less in the better eye;
- ii. ~~Visual Impairment~~ Low Vision – visual acuity better than 20/200 but worse than 20/70 in the better eye with the best possible correction at distance and/or near, or visual field restriction of 70 ~~degree~~ degrees or less but better than 20 degrees in the better eye;
- iii. Eye condition – including oculomotor apraxia, cortical visual impairment, convergence insufficiency, or other condition;
- iv. Progressive loss of vision which may affect a student’s educational performance in the future;
- v. Functional vision loss where acuity or visual field alone may not meet the criteria above; and
- c. The student’s ~~eye condition~~ disability, even with correction, adversely affects educational performance; and
- d. The student needs specially designed instruction.

3. Deaf or Hard of Hearing

Definition: Deaf or Hard of Hearing refers to ~~means a child with~~ a hearing loss, whether permanent or fluctuating, that impairs the access, comprehension, and/or use of linguistic information through hearing, with or without amplification, and that adversely affects a ~~child’s~~ student’s educational performance.

State Eligibility Criteria for Deaf or Hard of Hearing: An evaluation team will determine that a student is eligible for special education services as a student who is deaf or hard of hearing when all of the following criteria are met:

- a. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted; and
- b. The student exhibits a hearing loss that hinders his or her ability to access, comprehend, and/or use linguistic information through hearing, with or without amplification; and
- c. The student has been diagnosed by an audiologist as having a hearing loss; and
- d. The student’s ~~condition~~ disability adversely affects educational performance; and
- e. The student needs specially designed instruction.

4. Deaf-Blindness

Definition: A student with deaf-blindness demonstrates simultaneous ~~both~~ hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that the student cannot be appropriately educated with special education services designed solely for students who are deaf/hard of hearing or blind/low

vision ~~with deafness or blindness.~~

State Eligibility Criteria for Deaf-Blindness: An evaluation team will determine that a student is eligible for special education services as a student with deaf-blindness when all of the following criteria are met:

- a. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted~~;~~;
- b. The student exhibits simultaneous hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that the student cannot be accommodated with special education services designed solely for students ~~who are deaf/hard of hearing or blind/low vision with deafness or blindness;~~
- c. The student is diagnosed ~~with vision loss~~ by an optometrist or ophthalmologist ~~for vision loss and with hearing loss by an otologist, audiologist, or physician for hearing loss to make a final diagnosis as deaf-blindness;~~
- d. The student's ~~condition~~ disability adversely affects educational performance~~;~~ and
- e. The student needs specially designed instruction.

5. Developmental Delay

Definition: The term developmental delay ~~may be used only for~~ is appropriate for students ages three (3) until their tenth (10th) birthday who ~~do not clearly meet criteria for another disability category and~~ are experiencing developmental delays as measured by appropriate diagnostic instruments and procedures in one or more of the following ~~broad developmental~~ areas:

- a. cognitive development – includes ~~skills involving~~ perceptual discrimination, memory, reasoning, pre-academic/academic skills, and/or conceptual development;
- b. physical development – includes ~~skills involving~~ coordination of ~~both~~ the large and/or small muscles of the body (~~i.e., e.g.,~~ gross, fine, and perceptual motor skills);
- c. communication development – includes ~~skills involving~~ expressive and/or receptive communication abilities, verbal and/or nonverbal;
- d. social or emotional development – includes ~~skills involving~~ meaningful social interactions with adults and/or other ~~children-students~~ as well as those involved in emotional/behavioral regulation; and/or
- e. adaptive development – includes ~~skills involved in~~ independent functioning in major life activities, as well as self-help/daily living skills (e.g., eating, dressing, toileting, etc.).

~~The category of developmental delay should not be used when the student clearly meets the eligibility criteria for another specific disability category.~~

A student ~~who qualifies for special education under the category of developmental delay~~ cannot qualify for special education services ~~under developmental delay~~ beyond his or her tenth (10th) birthday unless he or she has been determined to be eligible as having a disability other than developmental delay. ~~If the student turns ten (10) before the due date of his or her next reevaluation, the evaluation team must conduct a reevaluation to determine whether the student~~

is eligible under another disability category prior to the student's tenth (10th) birthday.

State Eligibility Criteria for Developmental Delay: An evaluation team may determine that a student is eligible for special education services as a student with a developmental delay when all of the following criteria are met:

- a. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted;
- b. The student is at least three (3) years of age but less than ten (10) years of age;
- c. The student does not clearly meet the eligibility criteria for another disability category;
- d. The student has developmental and/or learning problems that are not primarily the result of limited English proficiency, or cultural difference, ~~environmental disadvantage, or economic disadvantage~~;
- e. The student meets either of the following two criteria; in one or more of the broad developmental areas listed below as measured by a score that combines multiple data points into a summary score, such as full scale, domain, composite, index, or quotient scores in the broad developmental area of concern:
 - 1) Criteria:
 - i. The student functions at least 2.0 standard deviations below the mean in one broad developmental area (30 percent delay in age equivalency, or functions at or below the ~~3rd~~ 2nd percentile); or
 - ii. The student functions at least 1.5 standard deviations below the mean in two or more broad developmental areas (25 percent delay in age equivalency, or functions at or below the 7th percentile).
 - 2) Broad Developmental Areas:
 - i. Cognitive development; ~~skills (e.g., perceptual discrimination, memory, reasoning, pre-academic/academic, and conceptual development)~~;
 - ii. Physical development; ~~skills (i.e., fine, gross, and perceptual motor skills)~~;
 - iii. Communication development; ~~skills (includes skills involving expressive and receptive communication abilities, both verbal and nonverbal)~~;
 - iv. Social or emotional development; and/or ~~skills~~; or
 - v. Adaptive development; ~~skills, including daily living/self-help skills~~.
- f. The student's ~~condition~~ disability adversely affects educational performance; and
- g. The student needs specially designed instruction.

6. Emotional Behavioral Disorder

Definition: A student with an emotional behavioral disorder exhibits one or more of the

following characteristics over a long period of time, and to a marked degree; ~~that adversely affects his or her educational performance;~~

- a. an inability to learn ~~that cannot be explained by intellectual, sensory, or health factors; that is not primarily the result of intellectual disability; or other health impairment~~
- b. an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- c. inappropriate types of behavior or feelings under normal circumstances;
- d. a general pervasive mood of unhappiness or depression;
- e. a tendency to develop physical symptoms or fears associated with personal or school problems; or
- f. Schizophrenia.

The term *does not* include ~~students who are socially maladjusted unless it is determined they have~~ social maladjustment unless it occurs concurrently with an emotional behavioral disorder.

State Eligibility Criteria for Emotional Behavioral Disorder: An evaluation team will determine that a student is eligible for special education services as a student with emotional behavioral disorder when all of the following criteria are met:

- a. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted; ~~;~~
- b. The student has been ~~documented~~ identified as exhibiting characteristics consistent with the criteria (~~a-f a~~) *i-vi* above ~~in this section~~) by one or more of the following: school psychologist, licensed psychologist, psychiatrist, physician, or ~~certified~~ licensed social worker; ~~;~~
- c. The student has been observed exhibiting one or more of the six (6) behavioral or emotional characteristics listed in the definition of emotional behavioral ~~disorder;~~ ~~disability.~~
- d. The characteristic(s) has been observed:
 - 1) for a long period of time (at least 6 months); and
 - 2) by more than one knowledgeable observer; and
 - 3) in more than one setting; and
 - 4) at a level of frequency, duration, and/or intensity that is significantly different from other students' behavior in the same or similar circumstances; ~~;~~
- e. The student's ~~condition~~ disability adversely affects educational performance in the area(s) of academics, peer and teacher interaction, participation in class activities, and/or classroom conduct; ~~;~~ And
- f. The student needs specially designed instruction.

7. Intellectual Disability

Definition: Intellectual Disability is defined as significantly subaverage intellectual functioning that exists concurrently with deficits in adaptive behavior. These deficits are manifested during the student's developmental period. ~~and adversely affect the student's educational performance.~~

State Eligibility Criteria for Intellectual Disability: An evaluation team will determine that a student is eligible for special education services as a student with an intellectual disability when all of the following criteria are met:

- a. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted;
- b. The student has a full-scale intelligence ~~standard~~ score or intelligence quotient (IQ) at or below a standard score of 70, plus or minus the standard error of measurement (at the 95 percent confidence level) of the test being used. ~~based on an~~ The assessment must be conducted by a licensed psychologist or certified school psychologist using an individually administered intelligence test;
 - 1) If, due to the severity and complexity of a student's disability, an IQ score cannot be obtained, the school psychologist may determine the presence of Intellectual Disability using a preponderance of evidence which must include:
 - i. an explanation of why an IQ score cannot be obtained;
 - ii. evidence supporting the presence of an Intellectual Disability; and
 - iii. scores indicating severe and global adaptive deficits at least two (2) standard deviations below the mean as measured by a norm-referenced assessment of adaptive skills using the global adaptive score.

The preponderance of evidence approach is not to be used for students who are unable or unwilling to participate in an assessment solely due to behavior.
- c. The student exhibits concurrent deficits in adaptive functioning unexpected for his or her age in at least two of the following areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, or safety. "Concurrent deficits" means two (2) standard deviations below the mean, plus or minus the standard error of measurement at the 95 percent confidence level;
- d. The student's ~~condition~~ disability adversely affects educational performance; and
- e. The student needs specially designed instruction.

To prevent inappropriate identification of students as having an intellectual disability, caution ~~Caution~~ is advised when assessing students with cultural and or language issues differences to prevent inappropriate identification of these students as having an intellectual disability. When determining eligibility, tests measuring intellectual ability shall be used with care; that is, only those tests designed and normed for the population being tested may be used. Tests measuring intellectual ability that are translated into another language by the examiner or an interpreter yield invalid test results and shall not be used.

8. ~~Speech or~~ Language Impairment: ~~Language~~

Definition: A language impairment exists when there is a disorder or delay in the development of comprehension and/or the uses of spoken or written language and/or other symbol systems. The impairment may involve any one or a combination of the following:

- a. the form of language (morphological and syntactic systems);
- b. the content of language (semantic systems); and/or
- c. the function of language in communication (pragmatic systems).

A language disorder does not exist when language differences are due to non-standard English or regional dialect or when the evaluator cannot rule out environmental, cultural, or economic disadvantage as primary factors causing the impairment. *If hearing may be an issue, the evaluation team should consider whether a hearing screening should be conducted, if one has not previously been completed. If the student has or is suspected of having hearing loss, the team must consider consulting the LEA Audiologist and Deaf and Hard of Hearing Teacher and/or Idaho Educational Services for the Deaf and Blind (IESDB). If the criteria for Deaf or Hard of Hearing have not been met, the student can be considered as having a Language Impairment when the State eligibility criteria below are met. ~~The evaluation team is encouraged to ask if a hearing screening has been completed. Also note, a student can be considered as having a Language Impairment if the criteria for Deaf or Hard of Hearing have not been met.~~*

State Eligibility Criteria for Language Impairment: An evaluation team will determine that a student is eligible for special education and related services as a student who has a language impairment when all of the following criteria are met:

- a. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.
- b. At least two procedures, ~~at least~~ one of which yields a standard score, are used to assess receptive language and/or expressive language.
- c. The student has attained scores on a standardized measure that are 1.5 standard deviations or more below the mean, ~~or~~ at or below the 7th percentile, in ~~either~~ receptive or expressive language *or the function of language in communication.*
- d. The student's disability adversely affects educational performance.
- e. The student needs specially designed instruction. (*Speech/language Language therapy can be considered a special education service or ~~specially designed instruction or~~ a related service.*)

Caution is advised when evaluating a student whose ~~native~~ *primary* language is other than English. The acquisition of the English language is not to be mistaken as a language impairment. *When assessing a student whose primary language is not English and an appropriate standardized measure is not available in the student's primary language, the speech language pathologist may determine the presence of Language Impairment using a preponderance of evidence which must include:*

- a. *information regarding the student's language history and background (e.g., language exposure for all languages spoken, age of acquisition for each language, use of each language);*

- b. developmental history, in order to consider patterns of development and to determine if other areas of development should also be considered during the evaluation;
- c. assessment in both languages to differentiate between language difference and a Language Impairment. The assessment may include the following:
 - 1) Standardized measures if they are culturally and linguistically appropriate and available in the student's primary language. The administration of these assessments should follow the guidelines of the testing manuals and be administered by a person competent in the language being assessed. An interpreter should not be used to translate a standardized language assessment not designed for the population represented by the student. Note: If there are not culturally and linguistically appropriate standardized tests available, the preponderance of evidence takes the place of required standardized assessment scores listed in the Language Impairment eligibility criteria.
 - 2) Dynamic Assessment, a pretest-intervention-posttest approach to evaluate a student's learning of language. It is an approach that focuses on how a student learns and responds to instruction.
- d. peer comparison information;
- e. parent and teacher reports regarding the student's language use and performance in different settings; and
- f. information regarding cultural considerations that may impact language development and assessment (e.g., cultural values, beliefs, practices, and dialect differences).

Required evidence (listed above) supporting the presence of a Language Impairment for multilingual learners must be present in the Eligibility Report.

NOTE: A student may receive language services if he or she is eligible for special education under another disability category and needs language services as a related service in order to benefit from special education without meeting the eligibility criteria for Language Impairment. As a special education or related service under another eligibility category, there is no specific score that indicates the need or lack of need for language therapy.

9. Multiple Disabilities

Definition: Multiple disabilities are two or more co-existing, severe impairments, one of which usually includes an intellectual disability, such as intellectual disability/blindness, intellectual disability/orthopedic **impairment**, etc. Students with multiple disabilities exhibit impairments that are **likely to be** life long, significantly interfere with independent functioning, and **may** necessitate environmental accommodations or adaptations to enable the student to participate in school and society. ~~The term does not include deaf-blindness.~~

If the student meets eligibility criteria for both Deaf or Hard of Hearing and Blind or Low Vision, the student would be identified under Deaf-Blindness, not Multiple Disabilities. However, a student who meets criteria under Deaf-Blindness and another disability listed below may meet the criteria for Multiple Disabilities.

At least one of the qualifying disabilities included **must** be:

Autism;
 Blindness or Low Vision;
 Deaf or Hard of Hearing;
 Deaf-Blindness;
 Intellectual Disability; or
 Orthopedic Impairment.

The following disability categories may **not** be used to establish the two or more co-existing, severe impairments required for eligibility under Multiple Disabilities:

Developmental Delay;
 Language Impairment;
 Specific Learning Disability; or
 Speech Impairment.

State Eligibility Criteria for Multiple Disabilities: An evaluation team will determine that a student is eligible for special education services as a student with multiple disabilities when all of the following criteria are met:

- a. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted;:-
- b. The student meets eligibility criteria for **two or more** severe-~~concomitant~~ co-existing impairments **as defined above**, the combination of which causes such significant educational problems that the student cannot be accommodated by special education services designed solely for one of the disabilities;:-
- c. The student meets State **eligibility criteria** ~~Eligibility Criteria~~ as outlined for each disability category;:-
- d. The student's ~~condition~~ **disability** adversely affects educational performance;:- **and**
- e. The student needs specially designed instruction.

10. Orthopedic Impairment

Definition: Orthopedic impairment means a severe physical limitation ~~that adversely affects a student's educational performance.~~ The term includes impairments caused by congenital anomaly (clubfoot, absence of an appendage, etc.), an impairment caused by disease (poliomyelitis, bone tuberculosis, etc.), ~~or~~ **and** an impairment from other causes (cerebral palsy, amputations, and fractures or burns that cause ~~contracture~~ **contractures**, etc.).

State Eligibility Criteria for Orthopedic Impairment: An evaluation team will determine that a student is eligible for special education services as a student with an orthopedic impairment when all of the following criteria are met:

- a. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted;:-

- b. The student exhibits a severe orthopedic impairment. The term includes congenital anomalies, impairments caused by disease, and impairments from other causes that are so severe as to require special education services;-
- c. The student has documentation of the condition by a physician or other qualified professional;-
- d. The student's ~~condition~~ disability adversely affects educational performance;- and
- e. The student needs specially designed instruction.

11. Other Health Impairment (OHI)

Definition: A student classified as having Other Health Impairment exhibits limited strength, vitality, or alertness, including heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems. These health problems may include, but are not limited to, asthma, ~~attention deficit disorder (ADD)~~, attention deficit hyperactivity disorder (ADHD), cancer, diabetes, epilepsy, Fetal Alcohol Syndrome, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, Tourette syndrome, and stroke. ~~to such a degree that it adversely affects the student's educational performance.~~

A student with ~~ADD~~/ADHD may also be eligible under another category (generally ~~Specific Learning Disability~~ ~~specific learning disability~~ or ~~Emotional Behavioral Disorder~~ ~~emotional behavioral disorder~~) if he or she meets the criteria for that other category and needs special education and related services. All students with a diagnosis of ~~ADD~~/ADHD are not necessarily eligible to receive special education under the IDEA, just as all students who have one of the other conditions listed under ~~Other Health Impairment~~ ~~other health impairment~~ are not necessarily eligible, unless it is determined the disability adversely ~~affect~~ affects educational performance and the student requires specially designed instruction.

State Eligibility Criteria for Other Health Impairment: An evaluation team will determine that a student is eligible for special education services as a student with an Other Health Impairment when all of the following criteria are met:

- a. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted;-
- b. The student exhibits limited strength, vitality, or alertness, including heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems;-
- c. The student has been diagnosed by a physician with a condition consistent with an Other Health Impairment as described above. In the case of ~~ADD~~/ADHD, an educational determination may be provided by a school psychologist. Diagnosis from a licensed psychologist or other diagnostician ~~provided to the LEA~~ must be considered by the evaluation team;-
- d. The student's ~~condition~~ disability adversely affects educational performance;- and
- e. The student needs specially designed instruction.

Educational Determination of ADHD: Attention-deficit/hyperactivity disorder (ADHD) is a condition characterized by an ongoing pattern of inattentive, hyperactive, and/or impulsive behaviors manifested to a significant degree, over time, and in more than one setting. While school personnel are not typically qualified to make a formal, clinical diagnosis of ADHD, an educational determination may be made by a certified school psychologist.

It is important that evaluation teams draw from a variety of sources of information to gather the most comprehensive view of the student's performance across environments. There is no single assessment or measure that identifies ADHD. An educational determination of ADHD must include:

- a. Observation of the student in the general education classroom setting as well as any other educational settings in which the student's educational performance may be impacted;
- b. Review of the student's educational, family, and medical history;
- c. Formal assessment(s) comparing the student's inattentive, hyperactive, and/or impulsive behavior to that of other students of the same sex and age (rating scales, continuous performance assessments, etc.); and
- d. Informal assessment(s) such as interviews, review of classroom work, feedback from staff or parents, behavior trackers, etc.

The school psychologist, in conjunction with the evaluation team, should also consider whether the following assessments are needed when making an educational determination of ADHD:

- a. Intellectual/cognitive assessment;
- b. Speech or language assessment;
- c. Vision assessment;
- d. Hearing assessment; and/or
- e. Other assessments that may be necessary to support decision-making and/or rule out other conditions that may be impacting the student's educational performance.

An educational determination of ADHD should not be used to avoid consideration of another category that may better explain the student's learning difficulties.

12. Specific Learning Disability

Definition: Specific Learning Disability (SLD) means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

The IDEA recognizes dyslexia as a type of SLD. According to the International Dyslexia Association, dyslexia is characterized by "difficulties with accurate and/or fluent word recognition and by poor spelling and decoding abilities. These difficulties typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction." When considering SLD,

particularly in the areas of Basic Reading Skills and Reading Fluency, the evaluation team may determine if there is a need to conduct assessment(s) specific to dyslexia.

Specific Learning Disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, ~~of~~ intellectual disability, ~~of~~ emotional behavioral disorder, or ~~of~~ environmental, cultural, or economic disadvantage.

State Eligibility Criteria for Specific Learning Disability: In determining whether a **student** ~~child~~ has ~~an SLD~~ a Specific Learning Disability, an evaluation that meets the procedures outlined in Section 5 of this chapter must be conducted, and the ~~child~~ student must meet, at a minimum, the following criteria:

a. **Exclusionary Factors.** The student's lack of achievement is not primarily the result of:

- 1) A visual, hearing, or motor impairment;
- 2) Intellectual disability;
- 3) Emotional behavioral disorder;
- 4) Environmental, cultural or economic disadvantage;
- 5) Limited English Proficiency;
- 6) A lack of appropriate instruction in reading, including the essential components of reading; and/or
- 7) A lack of appropriate instruction in math.

AND

b. **Evidence of Low Achievement.** The student demonstrates low achievement in the area(s) of suspected disability listed below as evidenced by a norm-referenced, standardized achievement assessment **in the area(s) of:**

- 1) Oral expression;
- 2) Listening comprehension;
- 3) Written expression;
- 4) Basic reading skills;
- 5) Reading comprehension;
- 6) Reading fluency;
- 7) Mathematics calculation; and/or
- 8) Mathematics problem solving.

AND

c. **Observation.** The student has been observed in their learning environment to document academic performance and behavior in ~~the~~ **each** area(s) of concern.

AND

d. **Response to Intervention OR Pattern of Strengths and Weaknesses.**

- 1) **Response to Intervention.** The student does not make sufficient progress in response to effective, evidence-based instruction and intervention for the student's age or to meet state-approved, grade-level standards in one or more of the following areas:
 - i. Oral expression;
 - ii. Listening comprehension;
 - iii. Written expression;
 - iv. Basic reading skills;
 - v. Reading comprehension;
 - vi. Reading fluency;
 - vii. Mathematics calculation; and/or
 - viii. Mathematics problem solving.

OR

- 2) **Pattern of Strengths and Weaknesses.** The student demonstrates a pattern of strengths and weaknesses in psychological processing skills that impact learning.

AND

- e. **Adverse Impact.** The disability adversely impacts the student's educational performance.

AND

- f. **Need for Specially Designed Instruction.** The student ~~requires~~ **needs** specially designed instruction.

Required Evidence

Required Evidence. The evaluation for determining initial Specific Learning Disability eligibility and requirements for parent notification and involvement shall be conducted in accordance with the procedures detailed in Chapter 4 of this Manual. To demonstrate initial student eligibility under this category, the following evidence must be provided:

- a. **Exclusionary Factors.** The team must provide evidence that the student's learning difficulty is not primarily the result of:
 - 1) A visual, hearing, or motor impairment;
If prior to or during the *Referral to Consider a Special Education Evaluation* process, a vision, hearing, and/or motor impairment was suspected or identified as an area of concern for the student, provide evidence that such impairment is not the primary factor in the student's learning difficulties.
 - 2) Intellectual disability;
Provide evidence that the student does not have an intellectual disability that is best served under the category of Intellectual Disability as defined in this

Manual.

- 3) Emotional behavioral disorder;
If prior to or during the *Referral to Consider a Special Education Evaluation* process, an emotional behavioral disorder was suspected or identified as an area of concern for the student, provide evidence that such impairment is not the primary factor in the student's learning difficulties.
- 4) Environmental, cultural or economic disadvantage;
If prior to or during the *Referral to Consider a Special Education Evaluation* process, an environmental, cultural, and/or economic disadvantage was suspected or identified as an area of concern for the student, provide evidence that such factors are not the primary factor(s) in the student's learning difficulties.
- 5) Limited English Proficiency;
If the student is an English Learner, provide evidence that English language acquisition is not the primary factor in the student's learning difficulties. ~~If the student is an English Learner,~~ and provide evidence that the student received meaningful and equitable access to general education curriculum and English Learner services.
- 6) A lack of appropriate instruction in reading, including the essential components of reading; or

Attendance. Provide evidence that the student has attended school regularly. If the student meets the criteria as a student who is or has been chronically absent, provide evidence that attendance is not the primary factor in the student's learning difficulties.

General Education Instruction. Provide evidence that the student has received grade-level, standards-aligned instruction in the regular education setting in reading. If the student has not received grade-level, standards-aligned instruction in reading, provide evidence that lack of access to general education instruction in reading is not the primary factor in the student's learning difficulties.

Qualified Personnel. Provide evidence that the student has received grade-level, standards-aligned instruction in the regular education setting in reading from a qualified teacher. If the student has not received grade-level, standards-aligned instruction in reading from a certified teacher, provide evidence that lack of instruction from qualified personnel in reading is not the primary factor in the student's learning difficulties.

- 7) A lack of appropriate instruction in math.

Attendance. Provide evidence that the student has attended school regularly. If the student meets the criteria as a student who is or has been chronically absent, provide evidence that attendance is not the primary factor in the student's learning difficulties.

General Education Instruction. Provide evidence that the student has

received grade-level, standards-aligned instruction in the regular education setting in math. If the student has not received grade-level, standards-aligned instruction in math, provide evidence that lack of access to general education instruction in math is not the primary factor in the student's learning difficulties.

Qualified Personnel. Provide evidence that the student has received grade-level, standards-aligned instruction in the regular education setting in math from a qualified teacher. If the student has not received grade-level, standards-aligned instruction in math from a certified teacher, provide evidence that lack of instruction from qualified personnel in math is not the primary factor in the student's learning difficulties.

AND

- b. **Evidence of Low Achievement.** Provide evidence of low achievement in each area of concern. These include:

- 1) Oral expression;
- 2) Listening comprehension;
- 3) Written expression;
- 4) Basic reading skills;
- 5) Reading comprehension;
- 6) Reading fluency;
- 7) Mathematics calculation; and/or
- 8) Mathematics problem solving.

This evidence must indicate performance that is significantly below the mean on a norm-referenced, standardized academic achievement assessment in each area of concern. Significantly below the mean is defined as 1.5 standard deviations (SD) below the mean, with a standard score (SS) of 78 or lower. When the preponderance of evidence indicates the likely presence of a Specific Learning Disability (SLD), a more lenient threshold of 1.0 standard deviations below the mean or a standard score of 85 or lower may be used.

Scores must be reported for each area of concern using:

- 1) A cluster or composite score comprised of two or more subtests; or
- 2) Two or more subtest scores.

There are cases when the use of norm-referenced assessment is not appropriate. For example, this may not be appropriate for students who are culturally and linguistically diverse. In such cases, teams may consider the preponderance of evidence when providing evidence of low achievement.

AND

- c. **Observation.** Provide a record of an observation in the student's learning environment (including the regular education setting) of the student's behavior and academic

performance in EACH academic area of concern. The observation(s) must be conducted by an evaluation team member other than the student's general education teacher and may be conducted in one or both of the following ways:

- 1) Use information from an existing, current, and relevant observation in routine classroom instruction and monitoring of the student's performance that was conducted before the student was referred for an evaluation; or
- 2) Have at least one member of the team conduct observation(s) after the student has been referred for an evaluation and written parental consent has been obtained.

AND

- d. **Response to Intervention OR Pattern of Strengths and Weaknesses in Psychological Processing.** All students being considered for Specific Learning Disability must participate in grade-level instruction **delivered by qualified personnel** and evidence-based intervention in general education in a tiered system of support (e.g., RTI or MTSS) prior to or as part of the referral process. Provide documentation of either failure to respond to scientific, evidence-based intervention (RTI) or the presence of a pattern of processing strengths and weaknesses that ~~impact~~ **impacts** learning.

*Provide evidence for items 1 and 2, below. Then provide evidence for **either** item 3 **OR** item 4, listed below.*

1. **Parent Notification of General Education Instruction and Intervention.**

Documentation that prior to or as part of the intervention and referral process, parents were notified about:

- a. The state's policies regarding the amount and nature of student performance data collected and the general education services provided;
- b. Strategies for increasing the student's rate of learning; and
- c. The parents' right to request an evaluation.

This requirement may be met by providing such notification to parents using the document provided by the Idaho Department of Education or through an LEA-created document that addresses the above-listed requirements.

2. **Effectiveness of Core Curriculum.** Provide documentation that instruction in the core curriculum is effective for most students. This is demonstrated using current data that helps establish that the grade-level, standards-aligned core curriculum is effective for most (50% plus 1) students based on growth and/or proficiency.

If the referred student belongs to a population of students whose performance is regularly disaggregated, data for the disaggregated group shall also be reviewed and considered.

3. **Option 1: Response to Intervention.** Provide evidence that the student failed to respond to scientific, evidence-based intervention in specific area(s) of concern.

- a. Provide a description of each targeted intervention that was provided to address specific skill deficit(s) in each area of concern; and

- b. Provide evidence that progress was monitored on identified skill deficits in each area of concern using a standardized, norm-referenced or criterion-referenced progress monitoring measure.
 - 1) For each area of concern, provide information about the progress made during the intervention(s). The information must include a visual representation (e.g., graph or table) and description of each of the following:
 - i. Aimline;
 - ii. Trendline;
 - iii. Decision points;
 - iv. The student's rate of improvement; and
 - v. National or local norms describing expected performance for grade level peers.
 - 2) Provide a summary of how the evaluation team used this information to determine that the student has not made sufficient progress toward grade-level expectations and performs significantly and consistently below grade level peers.

OR

- 4. **Option 2: Pattern of Processing Strengths and Weaknesses.** Provide evidence of a pattern of strengths and weaknesses in psychological processing skills that impact learning.

Provide evidence that the student's psychological processing skills are linked to the failure to achieve adequately in the academic area(s) of concern. Evidence must rely on standardized assessments. These assessments must be conducted by a professional who is qualified to administer and interpret the assessment results. The student's performance on a psychological processing assessment demonstrates a pattern of strengths and weaknesses that **helps help** explain why and how the student's learning difficulties occur. Such tests may include measures of memory, phonological skills, processing speed as well as other measures which explicitly test psychological processing.

- a. Report and describe processing strengths and weaknesses.
- b. Provide a description of how the identified pattern of strengths and weaknesses **helps help** explain learning difficulties in the area(s) of concern.

AND

- e. **Adverse Effect.** The disability adversely affects the student's educational performance.

AND

- f. **Need for Specially Designed Instruction.** The student **requires needs** specially designed instruction.

In the case of Specific Learning Disability eligibility determination, the eligibility report shall include certification in writing that the report reflects each member's conclusions (agreement). In

the case of team member disagreement with the conclusions, a written statement shall be attached to the eligibility report presenting the dissenting team member's conclusions.

13. Speech ~~or Language~~ Impairment: ~~Speech~~

The term speech impairment includes articulation/phonology disorders, voice disorders, or fluency disorders that adversely impact a ~~child's~~ student's educational performance. The following eligibility criteria and minimum assessment procedures have been established for all three types of speech impairments.

a) Articulation/Phonology Disorder

Definition: Articulation is the ability to speak distinctly and connectedly. Articulation disorders are incorrect productions of speech sounds including omissions, distortions, substitutions, and/or additions that may interfere with intelligibility. Phonology is ~~the process used in our language that has common elements (sound patterns) which affect different sounds.~~ the sound system of a language and the rules that govern the combination of these sounds. Phonology disorders are ~~errors involving~~ errors affecting the understanding and use of phonemes; and sound patterns; and the rules governing their combinations.

- a. An articulation/phonology disorder exists when:
 - 1) the disorder is exhibited by omissions, distortions, substitutions, or additions;
 - 2) the articulation interferes with communication ~~and calls attention to itself~~; and
 - 3) the disorder adversely affects educational or developmental performance.
- b. An articulation/phonology disorder does not exist when:
 - 1) errors are temporary in nature or are due to temporary conditions such as dental changes;
 - 2) differences are due to culture, bilingualism or dialect, or from being non-English speaking; or
 - 3) there are delays in developing the ability to articulate only the most difficult blends of sound or consonants within the broad range for the student's age.

State Eligibility Criteria for Articulation/Phonology Disorder: An evaluation team will determine that a student is eligible for special education and related services as a student who has an articulation/phonology disorder (speech impairment) when all of the following criteria are met:

- a. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.
- b. At least two procedures are used to assess the student, one of which yields a standard score.
- c. The student must have a score that is at least 1.5 standard deviations below the mean, ~~or~~ at or below the 7th percentile, on a standardized articulation/phonological assessment, or the speech impairment is judged as moderate on the standardized measure. ~~for students ages three (3) through twenty-one (21) years.~~

- d. The student's disability adversely affects educational performance.
- e. The student needs specially designed instruction. (Speech/~~language~~ therapy ~~can be considered a special education service or specially designed instruction or~~ a related service.)

b) Fluency Disorder

Definition: A fluency disorder consists of stoppages in the flow of speech that ~~is~~ ~~are~~ abnormally frequent and/or abnormally long. The stoppages usually take the form of repetitions of sounds, syllables, or single syllable words; prolongations of sounds; or blockages of airflow and/or voicing in speech.

- a. A fluency disorder exists when an abnormal rate of speaking, speech, interruptions, repetitions, prolongations, blockages of airflow and/or voicing interferes with effective communication.
- b. A fluency disorder does not exist when developmental dysfluencies are part of normal speech development and do not interfere with educational or developmental performance.

State Eligibility Criteria for Fluency Disorder: An evaluation team will determine that an individual is eligible for special education and related services as a student who has a fluency disorder (speech impairment) when all of the following criteria are met:

- a. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.
- b. The student has a fluency rating of moderate or severe on the Fluency Communication Rating Scale for ~~the~~ student's age. ~~three (3) through twenty-one (21) years.~~ See the documents ~~and resources provided on the SDE Idaho Department of Education website under section of this~~ Chapter 4 for the Fluency Communication Rating Scale.
- c. The student's disability adversely affects educational performance.
- d. The student needs specially designed instruction. (Speech/~~language~~ therapy ~~can be considered a special education service or specially designed instruction or~~ a related service.)

c) Voice Disorder

Definition: Voice disorders are the absence or abnormal production of voice quality, pitch, intensity, or resonance. Voice disorders may be the result of a functional or an organic condition.

A student who has a suspected laryngeal-based voice disorder and has not been evaluated by an ear, nose, and throat (ENT) physician (otorhinolaryngologist/ otolaryngologist) may not receive voice therapy services from a speech-language pathologist.

- a. A voice disorder exists when the vocal characteristics of quality, pitch, intensity, or resonance:
 - 1) interfere with communication;
 - 2) draw unfavorable attention to the speaker;
 - 3) adversely affect the speaker or listener; or
 - 4) are inappropriate to the age and gender of the speaker.

- b. A voice disorder ~~does not exist~~ ~~exists~~ when the vocal characteristics of quality, pitch, intensity, or resonance:
 - 1) are the result of temporary physical factors such as allergies, colds, or abnormal tonsils or adenoids;
 - 2) are the result of regional dialectic or cultural differences or economic disadvantage; or
 - 3) do not interfere with educational or developmental performance.

State Eligibility Criteria for Voice Disorder: An evaluation team will determine that a student is eligible for special education and related services as a student who has a voice disorder (speech impairment) when all of the following criteria are met:

- a. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.
- b. The student has a voice production rating of moderate or severe on the Voice Rating Scale. ~~for students aged three (3) through twenty-one (21) years.~~ See the documents [and resources provided on the SDE-Idaho Department of Education website under section of this Chapter 4](#) for the Voice Rating Scale.
- c. An ear, nose, and throat (ENT) physician's (otorhinolaryngologist) statement documents that voice therapy is not contraindicated.
- d. The student's disability adversely affects educational performance.
- e. The student needs specially designed instruction. (Speech/~~language~~ therapy [can be considered a special education service or specially designed instruction or](#) a related service.)

See the documents [and resources provided on the SDE-Idaho Department of Education website under section of this Chapter 4](#) for information on documenting adverse effects on educational performance for students with speech/~~language~~ disorders.

NOTE: A student may receive speech ~~or language~~ services if he or she is eligible for special education under another disability category and needs speech ~~or language~~ services as a related service in order to benefit from special education without meeting the eligibility criteria for speech ~~and language~~ impairment. [As a special education or related service under another eligibility category, there is no specific score that indicates the need or lack of need for speech therapy.](#)

14. Traumatic Brain Injury (TBI)

Definition: Traumatic brain injury means an acquired injury to the brain caused by an external physical force resulting in a total or partial functional disability or psychosocial impairment, or both, ~~that adversely affects educational performance~~. The term applies to open or closed head injuries resulting in impairments in one or more areas such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing, and/or speech. The term does not apply to congenital or degenerative brain injuries or to brain injuries induced by birth trauma.

State Eligibility Criteria for Traumatic Brain Injury: An evaluation team will determine that a student is eligible for special education services as a student who has a traumatic brain injury when all of the following criteria are met:

- a. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted;-
- b. The student has an acquired injury to the brain caused by an external physical force resulting in a total or partial functional disability or psychosocial impairment, or both;-
- c. The student has **medical** documentation of a traumatic brain injury;-
- d. The student's ~~condition~~ **disability** adversely affects educational performance;- **and**
- e. The student needs specially designed instruction.

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If a student is eligible for special education services, they have met the requirements of eligibility under the IDEA. Eligibility requires a student to meet the following three prongs: 1) the student has a disability that meets ~~the State~~ eligibility criteria; 2) the disability adversely affects the student's educational performance; and 3) the student ~~requires~~ needs specially designed instruction ~~to progress toward Idaho Content Standards that apply to all students.~~

Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a student with a disability including instruction conducted in the classroom, the home, hospitals, institutions, and other settings. The definition of special education also includes, ~~but is not limited to, the following:~~ instruction in physical education, speech~~/~~ or language ~~pathology~~ therapy services, travel training, and vocational education.

Specially designed instruction means adapting, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction to address the unique needs of the student that result from ~~his or her~~ the student's disability and to ensure access to the general education curriculum so that the student can meet the Idaho Content Standards that apply to all students.

The Individualized Education Program (IEP) is a written document developed for each eligible student ~~with a disability and~~ which documents ~~the~~ specially designed instruction, ~~including and~~ related services. The IEP is the product of team collaboration among ~~a the~~ parent/adult student, ~~district~~ LEA personnel, and other IEP team members who, through full and equal participation, identify the unique needs of a student with a disability and plan the special education services ~~and educational program~~ to meet those needs.

In developing each student's IEP, the IEP team shall consider:

1. the strengths of the student;
2. the concerns of the parents for enhancing the education of their child;
3. the results of the initial or most recent evaluation of the student;
4. the unique circumstances of the student; ~~and~~
5. the academic achievement, developmental, and functional needs of the student; ~~and~~
6. ~~special factors related to the student.~~

Section 1. IEP Initiation

A. Purpose of IEP Team Meeting

The primary purpose of an IEP team meeting is to design an appropriately ambitious IEP that meets the unique needs of a student with a disability. The IEP team determines the special education and related services reasonably calculated to enable the student to ~~receive educational benefits~~ make progress in light of the student's individual circumstances in the least restrictive

environment. The parent/adult student shall be invited to the meeting and participate meaningfully. (Note: transition age students must be invited to the IEP team meeting). ~~The Each~~ IEP team ~~member should~~ ~~member shall~~ come prepared to discuss specific information about the student's ~~unique circumstances~~ and the ~~type of services~~ educational program to be provided to address the student's unique circumstances.

The meeting format ~~should~~ ~~shall~~ invite open discussion that allows participants to identify and consider the unique circumstances of the student related to his or her disability and what is necessary ~~to provide for the student to~~ access ~~to~~, participate in, and make progress toward Idaho Content Standards in the general education curriculum. Placement decisions shall be considered *after* the special education services are determined and shall not be the determining factor in developing the IEP content.

Informal or unscheduled conversations involving ~~district~~ LEA personnel on various issues (e.g., teaching methodology, lesson plans, or coordination of service provisions) are not considered ~~a~~ to be an IEP meeting as long as no decisions are made regarding issues addressed on the student's IEP. ~~A meeting does not include preparatory~~ Preparatory activities in which ~~district~~ LEA personnel engage to develop a proposal or a response to a parent/adult student proposal that will be discussed at a later meeting ~~are not considered to be an IEP meeting~~.

B. IEP Team Decision Making

The IEP team meeting serves as a communication ~~vehicle~~ tool between IEP team members, enabling them to make joint, informed decisions regarding the student's special education services as equal participants. All members of the IEP team are expected to work toward consensus regarding IEP decisions to ensure the student receives a free appropriate public education (FAPE).

Consensus ~~means a consent~~ commitment of all IEP team members to support the decision of the team, which requires that all members of the team have an opportunity for meaningful participation.

- ~~1. If there is lack of consensus between the parent/adult student, district personnel, and other IEP team members regarding an IEP decision, then school personnel on the IEP team should seek consensus within the school team and provide written notice to the parent/adult student.~~
- ~~2. If there is a lack of consensus among school personnel, then the district representative on the IEP team shall make the decision and provide written notice to the parent/adult student.~~
- ~~3. The parent/adult student should be made aware of the procedures in Section 2J of this chapter, "Parent/Adult Student Objection to the IEP," and their procedural safeguards, including due process rights.~~

If the parent/adult student, school personnel, and other IEP team members are unable to reach consensus regarding an IEP decision, then school personnel on the IEP team should seek consensus within the school team and provide written notice to the parent/adult student.

If school personnel are unable to reach consensus, then the LEA representative on the IEP team shall make the decision and provide written notice to the parent/adult student.

The parent/adult student will be made aware of their procedural safeguards, including due process rights.

See Section 2O of this chapter, “Parent/Adult Student Objection to the IEP,” for more information about parent/adult student due process rights.

C. When IEP Team Meetings Are Held

An IEP team meeting shall be held for one or more of the following reasons:

1. to develop an IEP within thirty (30) calendar days of a determination that the student is eligible for special education and related services;
2. to conduct an annual review of the IEP, ~~review the IEP periodically, but no longer more than one year (365 days) from the date of development of the current IEP; with the IEP in effect at the beginning of each school year;~~
3. when another agency fails to deliver transition or other services outlined in the IEP to consider other options for how the student’s needs may be met;
4. to consider revisions to the IEP if there is any lack of expected progress toward annual goals and/or in the general education curriculum, ~~where appropriate;~~
5. at the reasonable request (as determined by the ~~district~~ LEA) of any member of the IEP team (Note: Written notice shall be provided to the parent/adult student who requests an IEP team meeting when a ~~an~~ district LEA refuses to hold one);
6. to review behavioral intervention strategies and/or to develop a behavioral ~~intervention~~ plan as part of the IEP; and/or
7. to address the IDEA discipline requirements (see Chapter ~~12-11~~); ~~and/or~~
- ~~8. to review the results of any reevaluation or independent educational evaluation (IEE).~~

NOTE: An IEP team meeting shall be considered to review the results of any reevaluation, clinical evaluation, or independent educational evaluation (IEE) received by the LEA.

NOTE: Under the IDEA, amendments to a student’s annual IEP may occur without a meeting if the parents and LEA agree in writing ~~an IEP team meeting may not be required to amend the IEP (see IEP Amendments).~~

See Section 3B of this chapter for more information about IEP Amendments.

D. IEP Team Members and Roles

The IEP team is a group of individuals responsible for developing, reviewing, or revising an IEP for a student with a disability.

Required IEP Team Membership and Roles

1. Parent/Adult Student

In the IDEA, the ~~The~~ term “parent” means ~~refers to~~

- a. a biological or adoptive parent;
- b. a foster parent if the parent’s authority to make educational decisions on behalf of the student has been terminated by law. The foster parent shall be an individual who has no interest that would conflict with the interests of the student;
- c. a ~~judicially decreed~~ guardian generally authorized to act as the student’s parent or authorized to make educational decisions (does not include State agency personnel if the student is a ward of the state);
- d. a person acting in place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, with whom the student lives or an individual who is legally responsible for the student’s welfare; or
- e. a surrogate parent who has been appointed by the ~~district~~ LEA. ~~The term “acting in place of a biological or adoptive parent” includes persons such as a grandparent, stepparent, or other relative with whom the student lives, as well as persons who are legally responsible for a student’s welfare. A foster parent may act as a parent if the natural parent’s authority to make educational decisions on behalf of his or her child has been terminated by law. A foster parent shall be an individual who is willing to make educational decisions required of a parent, and has no interest that would conflict with the interests of the student.~~
- f. If ~~more~~ other individuals in addition to ~~than~~ the biological or adoptive parents meet the definition of parent, the biological or adoptive parents serve as the parents in the IEP process, unless a judicial decree or order identifies a specific person or persons to make educational decisions for the student.
- g. An “adult student” is a student with a disability who is eighteen (18) years of age or older to whom special education rights have transferred under the IDEA and Idaho Code. ~~(See Chapter 11, Section 2C, for more information.)~~ In this case, the parent may attend the IEP team meeting as an individual who has knowledge or special expertise regarding the student, at the invitation of the adult student or the ~~district~~ LEA.
- h. The parent/adult student may not serve in another role other than that of parent/adult student.

See Chapter 12 for more information about parent/adult student membership on the IEP team.

2. LEA Representative

- a. The ~~district~~ LEA representative or designee shall be qualified to provide or supervise the provision of special education to meet the unique needs of students with disabilities. The representative shall be ~~qualified to provide or supervise the provision of specially designed instruction, shall be~~ knowledgeable about the general education curriculum, and ~~and about the availability of resources in the district. They~~ shall have the authority to allocate resources ~~and~~ to ensure that the IEP will be implemented. Examples of the ~~district~~ LEA representative include the building principal, the special education director, the ~~district~~ LEA superintendent, or others who meet the criteria described above.
- b. This person may serve a dual role on the team if all of the criteria are met for both roles. ~~The district representative may be another member of the IEP team if all the criteria above are met.~~

3. General Education Teacher (not less than one)

- a. A general education teacher of the student is required to participate in developing the IEP if a student is, or may be, participating in the general education environment. The participating general education teacher must be ~~Regardless, a representative that is~~ knowledgeable ~~of the~~ about Idaho Content Standards and the general education curriculum at the student's grade level ~~shall be present~~.
- b. For preschool-age students, the general education teacher may be the kindergarten teacher or an appropriate designee. Designees at the preschool level may include a care provider, Head Start teacher, or community preschool teacher, if that person meets ~~State and/or national~~ Idaho childcare licensing standards. ~~The parent may not serve as the general education teacher.~~
- c. If a student is or may be participating in the general education curriculum or environment, not less than one of the student's general education teachers shall participate in developing the IEP, ~~to the extent appropriate~~. The general education teacher's role in the development, review, and revision of the IEP includes:
 - 1) discussion of the student's involvement and progress in the general education curriculum, if known;
 - 2) discussion of appropriate positive behavioral interventions and other strategies for the student; and
 - 3) discussion of supplementary aids and services, program accommodations ~~/ or~~ adaptations, ~~to be provided by and~~ supports ~~provided by for~~ school personnel in the general education classroom.
- d. This person may not serve the dual roles of general education teacher and special education teacher.

4. Special Education Teacher (not less than one)

- a. This individual ~~generally will be~~ will generally be the student's special education teacher or service provider who is responsible for implementing the student's IEP. For example, in the case of a student receiving ~~primary special education~~ services from a speech-language pathologist, it ~~is may be more~~ appropriate for the speech-language pathologist to fill this role on the IEP team.
- b. This person may serve a dual role on the team if all of the criteria are met for both roles. However, this person may not serve the dual roles of general education teacher and special education teacher.

5. Other qualified professional(s) including individual(s) who can interpret assessment results and instructional implications

- a. This person may be someone who participated in the evaluation of the student. ~~He or she~~ This person shall be able to explain the results, the instructional implications, and the recommendations of the evaluation.
 - 1) This person may serve a dual role on the team if all of the criteria are met for both roles.
- b. In the case of a student with limited English proficiency, the IEP team must consider the language acquisition needs of the student as those needs relate to the student's IEP. The IEP team shall include one or more participants who have the requisite expertise about the student's language needs.
 - 1) This person may serve a dual role on the team if all of the criteria are met for both roles.

6. Individual(s) with Special Expertise

- a. At the discretion of the parent/adult student or the ~~district~~ LEA, other individuals who have knowledge or special expertise regarding the student, including related service personnel, may be included as IEP team members. The determination of having knowledge and special expertise regarding the student shall be made by the parent/adult student or school personnel ~~district person~~ who invited the individual to be a member of the IEP team.

7. Student

- a. Whenever appropriate, the IEP team ~~should include~~ includes the student with a disability. ~~A student shall be invited by the district to attend any IEP team meeting at which~~ When post-secondary goals and transition services ~~needed to assist the student in reaching those goals~~ will be discussed, the student shall be invited by the ~~district~~ LEA to attend the IEP team meeting. In Idaho, this requirement begins with the IEP to be in effect when a student is sixteen (16) years old (or younger if determined appropriate by the IEP team). If the student is a minor, the parent shall make the

decision regarding the student’s attendance. If the student does not attend the IEP team meeting, the ~~district~~ LEA shall take other steps to ensure that the student’s preferences and interests are considered.

See Section 2M of this chapter for more information on transition services and goals.

Other Potential Team Membership and Roles (required when applicable)

8. Private School Representative

- a. If a student is enrolled in or referred to a private school, the ~~district~~ LEA shall ensure that a representative of the private school is invited to the Services Plan (SP) or IEP team meeting. If a representative cannot attend, the ~~district~~ LEA shall use other methods to ensure participation by the private school, ~~including individual or conference telephone calls.~~

See Chapter 9 for more information about private schools.

9. Transition Agency Representative

- a. If transition services are being discussed, a representative of any participating agency likely to be responsible for providing or paying for transition services shall be invited (with the ~~prior written~~ consent of a parent/adult student ~~obtained prior to inviting the representative~~). If a representative does not attend, steps should be taken to obtain participation from the agency in transition planning.

10. Part C Coordinator or Representative

- a. A Part C coordinator or other representative may be invited by the ~~district~~ LEA to participate in the team IEP meeting for a preschooler transitioning to Part B services. Parents shall be informed of their right to request ~~an invitation for~~ that an Infant Toddler Program representative(s) ~~be invited~~ to ~~attend~~ the initial IEP team meeting.

Role	Description
Parent of the student or Adult Student if rights have transferred	The term “parent” refers to a biological or adoptive parent, foster parent, a judicially decreed guardian (does not include State agency personnel if the student is a ward of the state), a person acting in place of a parent, or a surrogate parent who has been appointed by the district. The term “acting in place of a biological or adoptive parent” includes persons such as a grandparent, stepparent, or other relative with whom the student lives, as well as persons who are legally responsible for a student’s welfare. A foster parent may act as a parent if the natural parent’s authority to make educational decisions on behalf of his or her child has been terminated by law. A foster parent shall be an individual who is willing to make educational decisions required of a parent and has

Role	Description
	no interest that would conflict with the interests of the student. If more than the biological or adoptive parents meet the definition of parent, the biological or adoptive parents serve as the parents in the IEP process, unless a judicial decree or order identifies a specific person or persons to make educational decisions for the student. An “adult student” is a student with a disability who is eighteen (18) years of age or older to whom special education rights have transferred under the IDEA and Idaho Code. (See Chapter 11, Section 2C, for more information.) In this case, the parent may attend the IEP team meeting as an individual who has knowledge or special expertise regarding the student, at the invitation of the adult student or the district.
District Representative	The district representative or designee shall be qualified to provide or supervise the provision of special education to meet the unique needs of students with disabilities. The representative shall be knowledgeable about the general education curriculum and about the availability of resources in the district. They shall have the authority to allocate resources and to ensure that the IEP will be implemented. Examples of the district representative include the building principal, the special education director, the district superintendent, or others who meet the criteria described above. The district representative may be another member of the IEP team if all the criteria above are met.
Special Education Teacher/Provider—not less than one	This individual generally will be the student’s special education teacher or service provider who is responsible for implementing the student’s IEP. For example, in the case of a student receiving primary services from a speech language pathologist, it is more appropriate for the speech language pathologist to fill this role on the IEP team.
General Education Teacher—not less than one	A general education teacher of the student is required to participate in developing the IEP if a student is, or may be, participating in the general education environment. Regardless, a representative that is knowledgeable of the general education curriculum at the student’s grade level shall be present. For preschool age students, the general education teacher may be the kindergarten teacher or an appropriate designee. Designees at the preschool level may include a care provider, Head Start teacher,

Role	Description
	or community preschool teacher, if that person meets State and/or national licensing standards.
Individual who can interpret evaluation results and implications	This person may be someone who participated in the evaluation of the student. He or she shall be able to explain the results, the instructional implications, and the recommendations of the evaluation.
Student	Whenever appropriate, the IEP team includes the student with a disability. A student shall be invited by the district to attend any IEP team meeting at which post-secondary goals and transition services needed to assist the student in reaching those goals will be discussed. If the student does not attend the IEP team meeting, the district shall take other steps to ensure that the student's preferences and interests are considered.
Representative of a Private School (if applicable)	If a student is enrolled in or referred to a private school, the district shall ensure that a representative of the private school is invited to the IEP team meeting. If a representative cannot attend, the district shall use other methods to ensure participation by the private school, including individual or conference telephone calls.
Representative of Transition Agency(s) (Parent/Adult student consent shall be obtained prior to inviting the Transition Agency Representative to participate in the IEP team meeting).	If transition services are being discussed, a representative of any participating agency likely to be responsible for providing or paying for transition services shall be invited (with the prior consent of a parent/adult student). If a representative does not attend, steps should be taken to obtain participation from the agency in transition planning.
Part C Coordinator or Representative	A Part C coordinator or other representative may be invited by the district to participate in the team IEP meeting for a preschooler transitioning to Part B services. Parents shall be informed of their right to request an invitation for an Infant Toddler Program representative(s) to the initial IEP team meeting.
Other	At the discretion of the parent/adult student or the district, other individuals who have knowledge or special expertise regarding the student, including related service personnel, may be included as IEP team members. The determination of having knowledge and special expertise regarding the student shall be made by the parent/adult student or district person who invited the individual to be a member of the IEP team.

E. Excusal of Required IEP Team Members

~~NOTE: The general education teacher, special education teacher, district representative, or individual who can interpret implications of evaluation results~~ A required school team member may be excused from an IEP team meeting, in whole or in part, if the parent/adult student and ~~district~~ LEA agree in writing and the requirements below are met:

1. the team **does not** intend to modify or discuss that team member's services or area of curriculum; or
2. the team **does** intend to modify or discuss that team member's services or area of curriculum, ~~If the meeting deals with the excused member's areas of the curriculum and/or services, he or she~~ and the team member has provided ~~shall provide~~ written input to the IEP team prior to the meeting.
 - a. Written input shall include substantive data (e.g., interpreting assessment findings, providing meaningful guidance to the team, regarding the purpose of the meeting, reflecting on general education curriculum).

~~3. If a district representative is excused, a staff member in attendance shall have the authority to bind the district to the decisions of the team.~~

In the event the LEA representative is the individual excused, a school team member in attendance shall be vested with the authority to bind the LEA to the decisions of the team.

E. The General Educator's Role in IEP Development

~~If a student is or may be participating in the general education curriculum or environment, not less than one of the student's general education teachers shall participate in developing the IEP, to the extent appropriate. The general education teacher's role in the development, review, and revision of the IEP includes:~~

- ~~1. discussion of the student's involvement and progress in the general education curriculum, if known;~~
- ~~2. discussion of appropriate positive behavioral interventions and other strategies for the student; and~~
- ~~3. discussion of supplementary aids and services, program accommodations/adaptations, to be provided by supports for school personnel in the general education classroom.~~

F. Invitation to IEP Team Meetings

The LEA shall ensure that the parents/guardians of a student with a disability have a meaningful opportunity to participate in each IEP meeting. To the extent possible, the ~~district~~ LEA should encourage the consolidation of all team meetings, including meetings that may involve eligibility, reevaluation, and IEP development.

The ~~district~~ LEA shall meet the requirements outlined below.

1. Notify the parent/adult student of the meeting with enough notice to ensure that they will have the opportunity to attend. If the student is of secondary transition age, the student shall also be invited. If the student is a minor, the parent shall make the decision regarding the student's attendance.
2. Schedule the meeting at a place and time mutually agreed upon by the parent/adult student and the ~~district~~ LEA. Alternatives to in-person meetings, such as video and telephone conferencing, may take the place of in-person IEP team meetings to meet the parent/adult student's needs.
3. ~~Invite the parent/adult student and the secondary transition age student, if applicable, to the meeting early enough to ensure that he or she can attend.~~
3. The ~~district~~ LEA shall keep a record of this invitation. The invitation shall include the following:
 - a. the purpose(s), time, and location of the meeting;
 - b. who will attend the meeting, by role;
 - c. information regarding the parent's/adult student's right to bring other people to the meeting and invite a Part C representative, if appropriate; and
 - d. notification that post-secondary goals and transition services will be discussed, as applicable. When the IEP team will consider transition services, the invitation shall:
 - i. indicate this purpose;
 - ii. invite the student; and
 - iii. identify any other agency that will be invited to send a representative, with parent's/adult student's consent.
4. The invitation should clarify the parent's/adult student's (or secondary transition age student's) role on the team and request that he or she come prepared to discuss the unique needs and characteristics of the student, the goals that would support the success of the student in the general education curriculum aligned with Idaho Content Standards, and the types of services needed to address those goals. ~~and the goals that would indicate the success of the services.~~
5. ~~Invite the student, if appropriate or required, to attend and participate in his or her the IEP team meeting. If the student is a minor, the parent shall make the decision regarding the student's attendance. If a one purpose of the meeting is to consider transition and but the student does not attend, the district shall take other steps to ensure that the student's preferences and interests are considered.~~

- ~~6. The invitation may be written or oral. In either case, the district shall document that all the required components noted in items 3 and 4 2 above were included in the invitation. In addition, the parent/adult student shall be given a physical copy of the *Procedural Safeguards Notice* at least annually, preferably at the annual review, unless the parent requests additional copies.~~
- ~~7. When one purpose of the IEP team meeting is to consider transition services, the invitation shall:~~
- ~~a. indicate this purpose;~~
 - ~~b. invite the student; and~~
 - ~~c. identify any other agency that will be invited to send a representative, with parent's/adult student's consent.~~
5. The invitation may be written or verbal and shall be in the parent/adult student's primary language. In either case, the district LEA shall document that all the required components noted in ~~item~~ items 3 and 4 2 above were included in the invitation. ~~In addition, the parent/adult student shall be given a physical copy of the *Procedural Safeguards Notice* at least annually, preferably at the annual review, unless the parent requests additional copies.~~
6. The district LEA shall take appropriate action to ensure that a parent/adult student understands the proceedings at an IEP team meeting, including arranging for an interpreter for a parent/adult student who has hearing loss or whose native language is other than English.
7. The IEP team may meet without the parent/adult student if he or she ~~cannot attend the meeting or~~ cannot be convinced to attend the meeting. ~~However, the district shall document its attempts to arrange a mutually agreed upon time and place for the meeting. Documentation could include records of telephone calls or conversations, copies of correspondence sent to the parent/adult student and any responses received, and/or detailed records of any visits made to the parent's/adult student's residence. If a meeting is held without the parent/adult student, the district shall offer and document alternative methods, such as conference calls, to gain his or her participation in the development of the IEP. Alternatives to physical meetings such as video and telephone conference, may take the place of physical IEP team meetings if the parent/adult student and district agree. If the parent/adult student cannot be convinced to attend the meeting, the following criteria shall be met:~~
- a. The LEA has documented its attempts to arrange a mutually agreed upon time and place for the meeting.
 - b. Alternatives to in-person meetings, such as video and telephone conferencing, have been offered to take the place of in-person IEP team meetings to meet the parent/adult student's needs.

- c. If a meeting is held without the parent/adult student, the LEA has offered and documented alternative methods, such as video and telephone conferencing, to gain the parent/adult student's participation in the development of the IEP.

Note: Documentation may include records of telephone calls or conversations, copies of correspondence sent to the parent/adult student and any responses received, and/or detailed records of any visits made to the parent's/adult student's residence.

Section 2. IEP Development

~~The IDEA clearly defines the required components of an IEP and the Idaho IEP form is designed to include only those IDEA required components. Therefore, no additional information may be required in a student's IEP beyond what is explicitly required by IDEA, nor can information be required under one component of a student's IEP that is already contained under another component of the student's IEP.~~

~~NOTE: IEP team meeting minutes are not part of the official IEP document.~~

A. General Demographic Components for All IEPs

~~All IEPs shall include, the date of the IEP team meeting and the following general demographic components: the student's name as it appears in school records, native language, birth date, and identification number (for State reporting or Medicaid purposes only), names of parents, address, phone number, school, and grade.~~

B. Documentation of Participants

~~The district shall ensure the attendance and participation of the IEP team members at the IEP team meeting. Documentation of attendance can be accomplished by listing team member roles on the IEP and checking their attendance status. Prior to the beginning of the meeting, an excusal form identifying any required district members not present at the IEP team meeting, with the parent/adult student's signature of approval shall be attached.~~

~~The attendance list is not a reflection of agreement or disagreement with the IEP; it is only an indication of attendance. As with any team member, the parent's/adult student's inclusion on the list does not indicate agreement or disagreement with the IEP contents. If the parent/adult student disagrees with all or part of the IEP, the district should remind the parent/adult student that he or she may file a written objection. Any participant at the IEP team meeting may file a minority report if he or she disagrees with a program decision. A minority report shall not prevent the implementation of an IEP team decision.~~

~~NOTE: See Section 2J of this chapter for additional information on parent/adult student objections.~~

~~C. Present Levels of Academic Achievement and Functional Performance, Goals, Objectives and Benchmarks~~

~~The IEP identifies present levels of academic achievement and functional performance (PLAAFP) and measurable goals that enable the IEP team to track the effectiveness of services and to report progress toward goals.~~

~~1. Statements of PLAAFP in an area of need include:~~

- ~~a. How a school-age student's disability affects his or her involvement and progress in the general education curriculum (i.e., the same curriculum used by students without disabilities).~~
- ~~b. For preschool students, the PLAAFP should describe how the disability affects the student's in-age-appropriate activities~~

~~2. Although the content of present levels of academic achievement and functional performance statements are different for each student, individual present level of academic and functional performance statements will meet the following requirements:~~

- ~~a. The statement shall be written in objective, measurable terms using easy-to-understand, non-technical language;~~
- ~~b. The other components of the IEP, including special education services, annual goals, and, objectives and benchmarks for students who participate in alternate assessments (AA), shall show a direct relationship to the content of present levels of academic and functional performance;~~
- ~~c. The statement shall provide baseline data for goal development;~~
- ~~d. The statement shall reference Idaho Content Standards, Idaho Workplace Skills Career Readiness Standards, Idaho Extended Content Standards Core Content Connectors, or Idaho Early Learning Guidelines (eGuidelines), as applicable;~~
- ~~e. The statement shall include the student's strengths and needs; and~~
- ~~f. The statement shall include parental concerns for enhancing the student's education; and~~
- ~~g. The statement shall address how a student's disability affects his or her involvement and progress in the general education curriculum (i.e., the same curriculum used by students without disabilities).~~

~~3. Annual IEP goals shall be appropriately challenging and reflect the needs described in the present levels of academic achievement and functional performance statements. Measurable academic achievement, developmental, and functional annual goals are designed to meet the student's unique needs that result from the student's disability, to enable the student to be involved in and make progress in the general education~~

~~curriculum, and to meet each of the student's other educational needs that result from the student's disability.~~

- ~~a. A goal is a written, measurable statements, developed from the baseline data, describing what a student is reasonably expected to accomplish within the time period covered by the IEP, generally one year.~~
 - ~~b. Goals are written to enable the student to be involved in and make progress in the general education curriculum and to meet other educational needs that result from the disability.~~
 - ~~c. A goal shall be appropriately challenging given the circumstances of the student and include the behavior, the performance criteria, and the evaluation procedure.~~
- ~~4. Objectives and benchmarks are required for students taking the AAs. Objectives and benchmarks shall align with the PLAAFP and the annual goal, as a progression toward meeting the annual goal.~~

~~D. Progress Toward Goals~~

~~The IEP shall include a statement describing:~~

- ~~1. How the student's progress toward IEP goals will be measured and the progress monitoring schedule;~~
- ~~2. How and when the parent/adult student will be informed of the student's progress toward the annual goals, including the extent to which progress is sufficient to enable the student to achieve the goals by the end of the IEP time period.~~

~~At minimum, periodic written progress statements related to progress toward annual goals will be reported concurrent with the issuance of report cards.~~

~~E. Statements of Special Education and Related Services~~

~~Each student's IEP shall describe the specific special education and related services that will be provided to or on behalf of the student, based on peer-reviewed research to the extent practicable. Special education includes specially designed instruction to meet the unique needs of the student.~~

~~The term "related services" refers to transportation and such developmental, corrective, and other supportive services required to assist a student with a disability to benefit from special education as described in the IEP. These services include, but are not limited to:~~

- ~~● Audiology~~
- ~~● early identification and assessment of student's disabilities~~

- ~~interpreter services~~
- ~~language therapy~~
- ~~medical services for diagnostic or evaluative purposes~~
- ~~occupational therapy~~
- ~~orientation and mobility services~~
- ~~parent counseling and training~~ Parent counseling and training includes helping a parent understand child development and the special needs of his or her child and acquire skills to support the implementation of his or her child's IEP.
- ~~physical therapy~~
- ~~psychological services~~
- ~~rehabilitation counseling services~~
- ~~school nurse services~~
- ~~social work services in school~~
- ~~speech therapy~~
- ~~supports for school staff~~
- ~~therapeutic recreation~~

~~The above list of related services is not exhaustive and may include other developmental, corrective, or supportive services, transition services or assistive technology.~~

~~Although services may be of benefit to a student with a disability, all of the services listed above may not be required for each individual student. Related services are the responsibility of the district only if the IEP team determines they are required to assist the student to benefit from special education. Further, the student is not entitled to related services if he or she is not eligible for special education or the parent/adult student does not consent to initial provision of special education services.~~

~~EXCEPTION: "Related Services" does not include a medical device that is surgically implanted or the replacement of such device (e.g., cochlear implant), the optimization of that device's functioning (e.g., mapping), or maintenance of that device, or the replacement of that device. The district is responsible to appropriately monitor and maintain devices to make sure the devices are functioning properly. This responsibility applies to devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school.~~

~~THIRD PARTY PAYERS: Consent from the parents/adult student is required when the district bills Medicaid or the parent's insurance for services provided. See Chapter 11 for details.~~

~~F. Supplementary Aids, Services, and Other IEP Considerations~~

~~Supplementary aids, and services may include general education curriculum accommodations and/or adaptations, support for school staff, positive behavioral intervention plans, extended school year services, transportation, transition services, assistive technology services, and travel training services deemed appropriate by the IEP team and shall be provided whether or not the district currently has these services in place.~~

~~The description of services in the IEP shall:~~

- ~~1. Identify the program accommodations and supplementary aids to be provided to the student in the areas of need.~~
- ~~2. List the specific services that will meet the unique needs of the student, allowing him or her to advance appropriately toward attaining the annual goals, and:~~
 - ~~a. be involved in and make progress in the general education curriculum;~~
 - ~~b. participate in extracurricular and other nonacademic activities; and~~
 - ~~c. be educated and participate with other students with disabilities and with students without disabilities to the maximum extent appropriate.~~

~~NOTE: The public agency shall ensure that each student with a disability has the supplementary aids and services determined by the student's IEP team to be appropriate and necessary for the student to participate in nonacademic settings.~~

- ~~3. State the projected starting date and expected duration of the services, accommodations, and/or adaptations.~~
- ~~4. List the anticipated time and frequency of sessions per week or month. The amount of service may not be stated as a range.~~
- ~~5. State the location where services and accommodations/adaptations will be provided (such as a general education classroom, resource room, etc.) Note: Location does not mean specific site.~~

~~Based on the unique needs of each student, the IEP team shall consider any services listed below that may be appropriate for the student and shall document such services on the IEP accordingly.~~

~~1. Supplementary Aids and Services~~

~~"Supplementary aids and services" are aids, services, and other supports that are provided in general education classes, other education-related settings and extracurricular and nonacademic~~

~~settings to enable students with disabilities to be educated with students without disabilities to the maximum extent appropriate in accordance with LRE requirements.~~

~~The determination of which supplementary aids and services are appropriate for a particular student shall be made on an individual basis. Supplementary aids and services may include the following: assistance of an itinerant special education teacher, related service provider, or paraprofessional; support or training for the general educator; use of resource services; provision of note takers; supports for extracurricular or other nonacademic activities; and supports for participation in state or district wide assessments.~~

~~2.—Accommodations and Adaptations~~

~~NOTE: “Modifications” include accommodations and adaptations. Idaho uses the terms accommodations and adaptations to describe two separate instructional and assessment practices.~~

~~Accommodations and adaptations include any changes that allow students with disabilities the same opportunity as students without disabilities to participate in and benefit from the educational program, activities, and services of the district.~~

~~Accommodations are intended to make educational opportunities more accessible. This may involve the setting, communication modality, equipment, and/or supplemental aids and services. Examples include Braille editions, large print, pencil grips, audio recording, note takers, and computers with spell check.~~

~~Accommodations are changes in the curriculum, instruction, or testing format or procedures that enable students with disabilities to participate in a way that allows them to demonstrate their abilities rather than disabilities. Accommodations are generally considered to include assistive technology, as well as changes in presentation, response, timing, scheduling, and settings that do not fundamentally alter the requirements. Accommodations do not invalidate assessment results and do not fundamentally alter the or course expectations.~~

~~Adaptations are changes in educational expectations for the student with a disability compared to peers without disabilities. These adaptations include actual changes in the general education curriculum and instruction or the use of an alternative or supplemental curriculum. Adaptations include strategies such as reading aloud the reading portion of a test, using spell/grammar check for language arts assessments, and substituting out of level testing. examples include fewer concepts to be mastered, different test questions, and material at a different reading level.~~

~~Whenever the IEP team determines that accommodations and/or adaptations are needed to ensure academic progress, these shall be indicated in the IEP. Any accommodations and/or adaptations required in physical education, vocational education, and state or district wide assessments shall be documented in the IEP.~~

~~3.—Assistive Technology Devices and/or Services~~

~~The district shall ensure that assistive technology devices and/or services are made available to a~~

~~student, if required, as special education, related services, or supplementary aids and services. The following points are definitions and clarifications of terms:~~

- ~~a. “Assistive technology device” means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a student with a disability. The term does not include a device that is surgically implanted or the replacement of such device.~~

~~The district shall permit the student to use school purchased assistive technology devices at home and in other settings if the IEP team determines that the student needs access to these devices in non-school settings to receive FAPE. An example of this would be to complete homework. The district may hold a parent/adult student liable for the replacement or repair of an assistive technology device that is purchased or otherwise procured by the district if it is lost, stolen, or damaged because of negligence or misuse at home or in another setting outside of school.~~

~~Assistive technology devices should be designed using “universal design” principles. The term “universal design” means a concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities. This includes products and services that are directly (without requiring assistive technologies) and products and services that are compatible with assistive technologies.~~

- ~~b. “Assistive technology service” means any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. The term includes the following:~~
- ~~1) — an evaluation of the student’s assistive technology needs, including a functional assessment in the student’s customary environment;~~
 - ~~2) — purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices;~~
 - ~~3) — selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;~~
 - ~~4) — coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;~~
 - ~~5) — training or technical assistance for a student with a disability or, if appropriate, that student’s family; and~~
 - ~~6) — training or technical assistance for professionals, including individuals providing education or rehabilitation services, employers, or other individuals who provide services.~~
- ~~c. The district shall ensure that the hearing technology worn by students who are~~

~~deaf or hard-of-hearing in school are functioning properly. CFR 300.113~~

- ~~d. The district is responsible for appropriately monitoring and maintaining medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is at school or being transported to and from school. The district will ensure that the external components of surgically implanted medical devices are functioning properly, but is not responsible for the post-surgical maintenance, programming or replacement of the medical device that has been surgically implemented, or of an external component of the surgically implanted medical device.~~

~~4. Extended School Year Services~~

~~The district shall provide extended school year (ESY) services for students with disabilities who qualify for such services. The ESY programs for eligible students shall meet the requirements of FAPE. The student's educational program is based on individual needs and is not determined by what programs are readily available within the district. The student cannot be required to fail or to go for an entire school year without ESY services, simply to prove a need. The IEP team shall consider the following in the development and provision of an ESY program:~~

- ~~a. The term "extended school year services" means special education and/or related services that are provided beyond the regular school year:~~
- ~~1) to a student with a disability;~~
 - ~~2) in accordance with the student's IEP; and~~
 - ~~3) at no cost to the parent/adult student.~~

~~The goal of ESY services is to assist students with disabilities with the emergence and maintenance of specific IEP goals addressed during the school year preceding the ESY. These may include goals related to independence, behavior, socialization, communication, and academics. The ESY services for special education students provide a different focus from general summer school programs.~~

- ~~b. The ESY services shall be considered in light of the totality of the circumstances, including the following:~~
- ~~1) Emerging skill: Few, if any, gains are made during the regular school year. A skill is in the process of emerging, and the IEP team believes that with ESY services the student would make reasonable gains; or~~
 - ~~2) Regression/recoupment: The student will experience significant regression, and the amount of time required to relearn a skill or behavior becomes so significant that the student would be unable to benefit from his or her special education; or~~

- ~~3) Self-sufficiency: An interruption in services would threaten the acquisition of critical life skills that aid in the student's ability to function as independently as possible, thereby continuing the student's reliance on caretakers, including institutionalized care. Critical life skills relate to those skills that lead to independent functioning. Development of these skills can lead to reduced future dependency on caretakers and enhance the student's integration with individuals without disabilities. Skills may include toileting, feeding, mobility, communication, dressing, self-help, and social/emotional functioning.~~
- ~~c. Decisions concerning ESY services shall be based on student performance data and written documentation. Types of data and information may include, but are not limited to, those listed below:~~
- ~~1) Criterion referenced test data: Consider daily/weekly probes or pre-test/post-test data.~~
 - ~~2) Norm referenced test data: Consider pre-test/post-test data.~~
 - ~~3) Anecdotal records: Consider information collected throughout the school year.~~
 - ~~4) Physical, mental, or emotional health factors: Consider the educational, medical, and psychological records of the student as well as the prognosis or judgments of educators, medical personnel, parents, and others who work with the student. Consider degenerative types of difficulties that may become intensified during breaks in educational programming.~~
 - ~~5) History: Consider evidence of past regression or past ESY services. The IEP team should not automatically assume that a student who has received ESY services in the past will be eligible for ESY services in the future, but it is a factor to consider.~~
 - ~~6) Data on observed performance: Consider data maintained on the student concerning performance observed in the classroom, during community-based activities, and as part of IEP progress monitoring.~~
 - ~~7) Teacher interviews and recommendations: Consider progress reports by teachers, therapists, and others who have direct contact with the student before and after breaks in educational programming.~~
 - ~~8) Parent/Adult student input: Consider parent observations of the student, as well as parent/adult student requests for ESY services.~~
- ~~d. The ESY services shall be clearly described in an IEP. The district can meet this requirement by amending the current IEP using an amendment form or by developing a complete ESY IEP. See Section 1C of this chapter for more~~

~~information.~~

- ~~e. The district may not limit ESY services to particular categories of disability or unilaterally limit the amount or duration of these services.~~

~~5. Transportation~~

~~Transportation is a related service intended for a student whose disability requires special arrangements benefit from special education. The student's individual needs concerning his or her education are the main considerations in determining services—this includes transportation services.~~

~~The IEP team shall consider how the student's disability affects his or her need for transportation, including determining whether the student's disability prevents the student from using the same transportation provided to students without disabilities, or from getting to school in the same manner as students without disabilities. This includes transporting a preschool-age student to the site at which the district provides special education and related services to the student, if that site is different from the site at which the student receives other preschool or day-care services.~~

~~When the IEP team determines that special transportation is required and documents it on the IEP, all procedural safeguards under the IDEA shall be afforded to the student in matters concerning transportation.~~

~~Transportation needs may include, but are not limited to, the following:~~

- ~~a. travel to and from school and between schools to access special education;~~
- ~~b. travel in and around school buildings;~~
- ~~c. specialized equipment including lifts and ramps, if required to provide special transportation; or~~
- ~~d. other services that support the student's use of transportation, such as:~~
 - ~~1) special assistance (e.g., an aide on the bus and/or assistance getting on and off the bus);~~
 - ~~2) safety restraints, wheelchair restraints, and/or child safety seats;~~
 - ~~3) accommodations (e.g., preferential seating, a positive behavioral support plan for the student on the bus, and/or altering the bus route);~~
 - ~~4) training for the bus driver regarding the student's disability or special health-related needs; or~~
 - ~~5) attending non-academic and extracurricular activities, if required by the IEP.~~

~~6. Special Considerations~~

~~As appropriate, the IEP team shall also consider and include the issues listed below in the IEP.~~

- ~~a. If the student's behavior impedes his or her learning or that of others, the IEP team shall consider the use of positive behavioral interventions, supports and other strategies to address that behavior.~~
- ~~b. If the student has limited English proficiency, the IEP team shall consider the language needs of the student. A student's cognitive academic language proficiency (CALP) shall be determined using the State adopted English language proficiency assessment.~~
- ~~c. If the student is blind or visually impaired, the IEP team shall provide for instruction in Braille and the use of Braille unless the IEP team determines that Braille is not appropriate for the student. This determination can only be made after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille).~~
- ~~d. The communication needs of the student. In the case of the student who is deaf or hard of hearing, the IEP team shall consider the language needs of the student, opportunities for direct communication with peers and professional personnel in the student's language and communication mode, the student's academic level, and his or her full range of needs including opportunities for direct instruction in the student's language and communication mode.~~

~~G. Statewide and Districtwide Achievement Testing~~

~~Section 1111(b)(2) of the Every Student Succeeds Act (ESSA) requires includes requirements that all students participate in statewide assessments.~~

~~Students with disabilities shall participate in all state and district wide assessments. Participation rates and performance data, both aggregate and disaggregate, for students with disabilities are reported to the public annually.~~

~~The IEP team shall determine how the student will participate in state and district wide assessments: without accommodations, with supports and accommodations, or by means of the AA. The IEP team determines the supports and accommodations a student will use based on those that are used regularly by the student during instruction or classroom testing and on what is documented in the accommodations section of the IEP.~~

~~The following guidelines shall be used to determine how the student will participate in state and district wide assessments:~~

~~1. General Assessment without Accommodations~~

~~The IEP team determines and documents in the IEP that a student with a disability can adequately demonstrate his or her knowledge, abilities, or skills on state and district-wide assessments without accommodations.~~

~~2. General Assessment with Supports and Accommodations~~

~~Appropriate supports and accommodations for students with disabilities shall be based on the individual needs of each student. Supports and accommodations decisions are made by the IEP team and shall be recorded in the IEP. Accommodations should facilitate an accurate demonstration of academic achievement, developmental, and functional performance on state and district-wide assessments. They should not provide the student with an unfair advantage or change the underlying skills that are being measured by the test. Supports and accommodations shall be the same or nearly the same as those used by the student in completing classroom assignments and assessment activities. The supports and accommodations shall be necessary for enabling the student to demonstrate knowledge, ability, skill, or mastery of academic content. Accommodations *do not* invalidate test results.~~

~~Students taking state and district-wide assessments with supports and/or accommodations shall be given opportunities to practice and become familiar with said supports and/or accommodations in the relevant test delivery system before they begin testing.~~

~~3. Alternate Assessments based on Alternate Academic Achievement Standards (AAs)~~

~~AAs are a statewide testing option intended only for those students with the most significant cognitive impairments, in lieu of the general education assessment, with or without supports and accommodations. Participation in AAs reflects the pervasive nature of a significant cognitive impairments and requires that a student meet all participation eligibility criteria. Students with the most significant cognitive impairments represent about 1% of the total student population.~~

~~The IEP team shall consider a student's participation in AAs on an annual basis using the participation criteria listed below. The IEP team shall document the student's testing status in the appropriate sections of the IEP.~~

~~a. A student must meet **all four** of the following participation criteria to qualify for the AA:~~

- ~~1) The student has a significant cognitive impairment.~~
- ~~2) The student is receiving academic instruction that is aligned with the Idaho Extended Content Standards.~~
 - ~~a) The student's instruction and IEP goals/objectives/benchmarks address knowledge and skills that are appropriate and challenging for the student.~~
- ~~3) The student's course of study is primarily adaptive skills oriented typically not measured by state or district assessments.~~
 - ~~a) Adaptive skills are essential to living independently and functioning safely in daily life, and include, but are not limited to motor skills, socialization, communication, personal care, self-direction, functional academics, and personal health and safety.~~

- ~~4) The student requires extensive, direct, individualized instruction and substantial supports to achieve measurable gains in the grade and age appropriate curriculum.~~
 - ~~a) The student consistently requires individualized instruction in core academic and adaptive skills at a substantially lower level relative to other peers with disabilities.~~
 - ~~b) It is extremely difficult for the student to acquire, maintain, generalize, and apply academic and adaptive skills in multiple settings, across all content areas, even with high quality extensive/, intensive pervasive, frequent, and individualized instruction.~~
 - ~~c) The student requires pervasive supports, substantially adapted materials, and individualized methods of accessing information in alternative ways to acquire, maintain, generalize, demonstrate, and transfer skills across multiple settings.~~
- ~~b. Students shall not qualify to participate in Alternate Assessments based on Alternate Achievement Standards solely based on any of the following reasons:~~
 - ~~1) Having a disability~~
 - ~~2) Poor attendance or extended absences~~
 - ~~3) Native language/social, cultural or economic differences~~
 - ~~4) Expected poor performance or past basic/below basic performance on the regular education assessment~~
 - ~~5) Academic and other services student receives~~
 - ~~6) Educational environment or instructional setting~~
 - ~~7) Percent of time receiving special education services~~
 - ~~8) English Language Learner (ELL) status~~
 - ~~9) Low reading level/achievement level~~
 - ~~10) Anticipated disruptive behavior~~
 - ~~11) Impact of student scores on the accountability system~~
 - ~~12) Administrative decision~~
 - ~~13) Anticipated emotional distress~~
 - ~~14) Need for accommodations (e.g., assistive technology/AAC) to participate in the assessment~~

H. LRE Explanation and Placement Decisions

The IEP shall explain the extent, if any, to which the student will *not* participate in the general education classroom, the general education curriculum, and/or extracurricular or other nonacademic activities.

In recommending the appropriate placement in the least restrictive environment (LRE) for the student with a disability, the IEP team shall consider the student's unique circumstances and the continuum of services available to meet those unique circumstances. The parent/adult student shall be involved in the placement decision. Removal from the general education environment occurs only when the nature or severity of the disability is such that education in general classes with the use of supplementary aids and services cannot be achieved satisfactorily. A student with a disability is not to be removed from age appropriate general education classrooms solely because of needed accommodations and adaptations in the general education curriculum. In addition, a student with a disability shall be educated with students without disabilities in the general education classroom to the maximum extent appropriate.

~~NOTE: The district's reassignment of students (with or without disabilities) to another classroom or building in the district is *not* a change of placement for a student with a disability, as long as the IEP goals remain unchanged and the degree of interaction with peers without disabilities remains the same. Examples include, but are not limited to, dividing a class because of overcrowding; moving an entire grade level to a different building; or going to a different school as a result of moving from one grade level to another grade level.~~

~~See Chapter 6 for more information on placement in the LRE~~

~~I. Consent for Initial Provision of Special Education and Related Services~~

~~The district shall make reasonable efforts to obtain informed consent from the parent/adult student before the initial provision of special education and related services for the student.~~

~~If the parent/adult student communicates in writing that he or she refuses special education and related services following the evaluation and eligibility determination, the district shall not provide special education and related services to the student. If the parent/adult student fails to respond to a district's documented efforts to gain consent for initial provision of special education and related services, the district shall not provide special education and related services to the student. In both cases:~~

- ~~1. The district shall not be in violation of the requirement to provide FAPE to the student or the requirement to provide special education and related services;~~
- ~~2. The district shall not be required to convene an IEP team meeting or develop an IEP for the student; and~~
- ~~3. The district shall not use mediation and/or due process in order to obtain consent or a ruling allowing initial placement.~~

~~If the parent/adult student wishes to move forward with the provision of services stated on the IEP and placement in special education, consent for initial placement in special education shall be obtained after the development of an IEP. Consent means that the parent/adult student understands and agrees in writing to the carrying out of the activity for which consent is sought.~~

~~J. Parent/Adult Student Objection to the IEP~~

~~If the parent/adult student disagrees with an IEP team's proposed IEP for the student, the parent or adult student may file a written objection to all or parts of the proposed IEP. If the parent/adult student files a written objection that is emailed, postmarked or hand-delivered within ten (10) days of the date he or she receives written notice from the district of the proposed IEP, the changes to which the parent/adult student objects cannot be implemented for fifteen (15) calendar days, or as extended through mutual agreement by the district and the parent or adult student, while parties work to resolve the dispute. If the changes have already been implemented, implementation of those changes shall cease. The district and parent/adult student may use methods such as additional IEP team meetings, IEP facilitation, or SDE mediation to resolve the disagreement. If these attempts to resolve the dispute fail or are refused, the proposed IEP shall~~

~~be implemented after fifteen (15) calendar days unless a due process hearing is filed to obtain a hearing officer's decision regarding the proposed IEP, unless it is an initial IEP. The written objection cannot be used to prevent the district from placing a student in an interim alternative educational setting (IAES) in accordance with the IDEA procedures for discipline of a student, or to challenge an eligibility/identification determination.~~

~~If the parent/adult student files a written objection to an IEP change or placement change proposed by the district any time after ten (10) calendar days of receiving written notice, the student shall remain in the placement described in the disputed IEP, and that IEP is implemented as written until the disagreement is resolved unless the parent/adult student and the district agree otherwise.~~

~~See Chapter 11 for information about the prior written notice requirements regarding the provision of FAPE and educational placement.~~

~~See Chapter 13 for more information about the various forms of dispute resolution including facilitation and mediation.~~

~~K. Additional Transition Components for Secondary-Level IEPs~~

~~Secondary transition services are defined as a coordinated set of activities for a student with a disability that are designed within a results-oriented process focused on improving the academic and functional achievement of the student to facilitate movement from school to post-school activities including postsecondary education, vocational education, integrated employment (including supported employment), continuing in adult education, adult services, independent living, or community participation. The activities include instruction, community experiences, development of employment and other post-school adult living objectives and, if appropriate, acquisition of daily living skills and a functional vocational evaluation. These activities are based on the individual student's needs, taking into account the student's strengths, preferences, and interests. The following are required components for all secondary students receiving special education services.~~

- ~~1. Beginning with the IEP to be in effect when a student is sixteen (16) years old (or younger if determined appropriate by the IEP team), the IEP shall include:~~
 - ~~a. present levels of academic and/or functional performance and a functional vocational evaluation where appropriate;~~
 - ~~b. appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills;~~
 - ~~c. transition services, including a course of study, that will reasonably enable the student in reaching postsecondary goals identified on the IEP which may include postsecondary education and training, employment and career counseling, community participation, independent living or adult services;~~
 - ~~d. evidence that the student was invited to the IEP team meeting where transition services are to be discussed; if the student does not attend the IEP team meeting, the IEP team must take other steps to ensure the student's preferences and~~

- interests are considered;
- ~~e. evidence that a representative of any participating agency was invited to the IEP team meeting with a prior consent of the parent or student who has reached age of majority; and~~
- ~~f. the graduation requirements for the student receiving special education services. Refer to Chapter 7 for more detailed information on documentation of high school graduation in the IEP.~~

~~The postsecondary goals and transition services shall be updated on the IEP annually.~~

- ~~2. Not later than the student's seventeenth (17th) birthday, the IEP shall include a statement that the student and parent has been informed whether or not special education rights will transfer to the student on his or her eighteenth (18th) birthday. Special education rights will transfer from the parent to the student when the student turns eighteen (18) years old unless the IEP team determines that:
 - ~~a. the student is unable to provide informed consent with respect to his or her special education program; or~~
 - ~~b. the parent has obtained legal guardianship.~~~~

~~(For more information on the transfer of rights, see Chapter 11)~~

- ~~3. When a student exits from special education as a result of complying with the Idaho Content Standards and such applicable district graduation requirements or aging out, the district shall provide the student with a summary of his or her academic achievement and performance along with recommendations concerning how to assist the student in meeting postsecondary goals.~~

~~L. Following the Meeting~~

~~Following the IEP team meeting, a copy of the IEP and written notice of proposed or refused actions shall be given to the parent/adult student. IEPs and written notice should also be given to the parent/adult student whenever a change is made to the IEP or upon request.~~

~~Each general education teacher, special education teacher, related service provider, and any other service provider who is responsible for implementing any portion of the IEP shall have access to the IEP and be informed of his or her specific responsibilities. This includes being informed of any specific accommodations, adaptations, or supports that shall be provided to the student to ensure that the IEP is implemented appropriately.~~

Section 2. IEP Development

The IDEA clearly defines the required components of an IEP and the Idaho IEP form is designed to include only those IDEA required components. Therefore, no additional information may be required in a student's IEP beyond what is explicitly required by the IDEA, nor can information be required under one component of a student's IEP that is already contained under another component of the student's IEP.

NOTE: IEP team meeting notes are not part of the official IEP document and are not required. However, teams are strongly encouraged to take meeting notes.

A. General Demographic Information for All IEPs

All IEPs shall include, at a minimum, the date of the IEP team meeting and the following general demographic components: the student's name as it appears in school records, native language, student ethnicity, student sex, birth date, and State identification number, names of parents, address, phone number, school, and grade.

B. Documentation of Participants

The LEA shall ensure the attendance and participation of the IEP team members at the IEP team meeting. Documentation of attendance can be accomplished by listing team member roles on the IEP and checking their attendance status. Prior to the beginning of the meeting, an excusal form identifying any required LEA members not present at the IEP team meeting, with the parent/adult student's written consent, shall be obtained. In the event the parent does not agree to excuse the required team member, the meeting shall be rescheduled at a time when the LEA member(s) can be present.

The attendance list on the IEP Team Information page indicates attendance at the meeting and is not a reflection of agreement or disagreement with the IEP. As with any team member, the parent's/adult student's inclusion on the list does not indicate agreement or disagreement with the IEP contents. If the parent/adult student disagrees with all or part of the IEP, the LEA should remind the parent/adult student that he or she may file a written objection. Any participant at the IEP team meeting may file a minority report if he or she disagrees with a program decision. A minority report shall not prevent the implementation of an IEP team decision.

See Section 2P of this chapter for additional information on parent/adult student objections.

C. Present Levels of Academic Achievement and Functional Performance (PLAAFP)

The IEP identifies present levels of academic achievement and functional performance (PLAAFP) and measurable goals that enable the IEP team to report on the student's progress towards goals and the effectiveness of the services being provided for each skill area identified as an area of need by the IEP team. A PLAAFP statement must be included addressing each skill area identified by the IEP team and shall be written in objective, measurable terms using easy-to-understand, non-technical language.

Each PLAAFP shall include:

1. a description of the student's strengths in the skill area;

2. parent concerns for enhancing student performance in the skill area;
3. a disability impact statement indicating how the student's disability impacts involvement in and ability to make progress toward grade-level, Idaho Content Standards in the general education curriculum (i.e., the same curriculum used by students without disabilities);
4. a student need statement identifying the skill(s) the student needs to learn that will guide the develop of the annual goal; and
5. baseline data indicating the student's current performance on the skill that will be targeted in the annual goal referencing the same condition, target skill, and evaluation procedure that will be described in the annual goal.

The PLAAFP statements guide the development of the other components of the IEP, including special education services, annual goals, and objectives and benchmarks for students who participate in an alternate assessment based on alternate academic achievement standards. These components shall show a direct relationship to the content of present levels of academic achievement and functional performance;

Note: For preschool students, the PLAAFP should describe how the disability affects the student's performance and/or participation in age-appropriate activities according to the Idaho Early Learning Guidelines (eGuidelines).

See Section 2L of this chapter for more information about Early Childhood IEPs.

D. Annual Goals, Objectives, and Benchmarks

Annual IEP goals shall be appropriately challenging and reflect the needs described in the PLAAFP statement. Measurable academic achievement, developmental, behavioral, and functional annual goals are designed to meet the student's unique needs that result from the student's disability, to enable the student to be involved in and make progress toward grade-level, Idaho Content Standards in the general education curriculum, and to meet each of the student's educational needs that result from the student's disability.

The statements below shall be true of each annual goal included in the student's IEP.

1. Goals are written, measurable statements, aligned with baseline data, describing what a student is reasonably expected to accomplish within the time period covered by the IEP, generally one year.
2. Goals are written to enable the student to be involved in and make progress in the general education curriculum and to meet other educational needs that result from the disability.
3. Goals shall be appropriately challenging given the circumstances of the student.

4. Each goal shall reference and be aligned to the Idaho Content Standards, Workplace Skills for Career Readiness Standards, or eGuidelines, as applicable.
5. Each goal shall include:
 - a. Condition—the conditions under which the student will be expected to demonstrate the target skill;
 - b. Target skill—the specific skill or behavior that will be targeted for instruction;
 - c. Performance criteria—the measurable frequency, rate, or accuracy of the occurrence or demonstration of the target skill;
 - d. Evaluation procedure—the procedure that will be used to measure the progress of the student toward achieving the goal, including how progress will be monitored; and
 - e. Schedule—the description of how and when data outlined in the evaluation procedure will be gathered.
6. Goals should include the consideration of any Assistive Technology (AT) or Accessible Educational Materials (AEM) needs for the student;
7. Goals with objectives and benchmarks are required for students taking an alternate assessment based on alternate academic achievement standards. Objectives and benchmarks shall align with the PLAAFP and the annual goals, as a progression toward meeting the annual goals.

E. Monitoring and Reporting Progress Toward Goals

The IEP shall include information describing:

1. How the student's progress toward IEP goals will be measured and the progress monitoring schedule, to be described in the evaluation procedure and schedule connected to each IEP goal; and
2. How and when the parent/adult student will be informed of the student's progress toward the annual goals.

At minimum, periodic written progress statements related to progress toward annual goals shall be reported concurrent with the issuance of report cards.

F. Special Education and Related Services

Once the IEP team has reviewed the student's PLAAFP and established goals in each skill area of need, the team shall determine which special education and related services are needed to ensure the student's progress toward meeting goals.

1. **Special Education Services** include specially designed instruction the team has identified to meet the student's unique needs. These are the services that will support the student's growth on annual goals and help them move closer to grade level.
2. **Related Services** include any additional services that help the student with a disability to benefit from special education. Examples of related services include but are not limited to Occupational Therapy, Special Transportation, Orientation and Mobility Services, Nursing Services, Counseling Services, and more.

Related Services

"Related services" means transportation and such developmental, corrective, and other supportive services required to assist a student with a disability to benefit from special education as described in the IEP. These services include, but are not limited to, those listed and defined below.

1. **Audiology**

Audiology services include identification of students with hearing loss, determination of the range, nature, and degree of hearing loss, provision of habilitative activities, creation and administration of programs for prevention of hearing loss, counseling and guidance to students, parents and teachers regarding hearing loss, and the determination of student need for group and individual amplification, selecting and fitting an appropriate aid, and evaluating effectiveness of amplification.

2. **Counseling services**

Counseling services include services provided by qualified social workers, psychologists, guidance counselors, and other qualified personnel, including personnel qualified to provide services exclusively in a school setting.

3. **Interpreter services**

Interpreter services for students who are deaf or hard of hearing include oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services. Students who are deaf-blind may require special interpreting services.

4. **Language therapy**

Language therapy services include identification of students with language impairments, diagnosis and appraisal of specific language impairments, referral for professional habilitation of language impairments when necessary, and provision of language services for the habilitation or prevention of communicative impairments.

5. **Occupational therapy**

Occupational therapy services mean services provided by a qualified occupational therapist for improving, developing, or restoring functions impaired or lost through

illness, injury, or deprivation, improving ability to perform tasks for independent functioning if functions are impaired or lost, and/or preventing, through early intervention, initial or further impairment or loss of function.

6. Orientation and mobility services

Orientation and mobility services include services provided to blind or visually impaired students by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community. These services may also include teaching spatial and environmental concepts and use of information received by the senses to establish, maintain, or regain orientation and line of travel, teaching the use of the long cane or a service animal, and teaching the use of remaining vision and distance low vision aids, and other concepts, techniques, and tools.

7. Parent counseling and training

Parent counseling and training includes helping a parent understand child development and the special needs of the student and acquire skills to support the implementation of the student's IEP.

8. Physical therapy

Physical therapy services mean services provided by a qualified physical therapist for improving gross motor skills, including treatment to increase muscle strength, mobility, endurance, physical movement, and range of motion; improve posture, gait, and body awareness; and monitor function, fit, and proper use of mobility aids and devices.

9. Psychological services

Psychological services include administering and interpreting assessments related to the student's educational performance and conditions related to learning, consulting with other staff members in planning school programs to meet the student's special educational needs, planning and managing a program of psychological services, including psychological counseling for students and parents, and assisting in developing positive behavioral intervention strategies.

10. Recreation, including therapeutic recreation

Recreation services include assessment of leisure function, therapeutic recreation services, recreation programs in schools and community agencies, and leisure education.

11. Rehabilitation counseling services

Rehabilitation counseling services means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment, preparation, achieving independence, and integration in the workplace and community of a student with a disability. This also includes vocational rehabilitation services provided through vocational rehabilitation programs.

12. School health and school nurse services

School health services are services that may be provided by either a qualified school nurse or other qualified person. School nurse services are services provided by a qualified school nurse.

13. Social work services in school

Social work services in school include preparing a social or developmental history on a student with a disability, group and individual counseling with the student and family,

working in partnership with parents and others on those problems in the student's living situation that affect the student's adjustment in school, mobilizing school and community resources to enable the student to learn as effectively as possible in his or her educational program, and assisting in developing positive behavioral intervention strategies.

14. Speech therapy

Speech therapy services include identification of students with speech impairments, diagnosis and appraisal of specific speech impairments, referral for professional habilitation of speech impairments when necessary, and provision of speech services for the habilitation or prevention of communicative impairments.

15. Supports for school staff

Supports for school staff include training, equipment, assistive technology, or other supports required to ensure staff have the skills and tools needed to address the needs of a student with a disability.

The above list of related services is not exhaustive and may include other developmental, corrective, or supportive services, transition services or assistive technology.

Related services are the responsibility of the LEA only if the IEP team determines they are required to assist the student to benefit from special education. Although related services may be of benefit to any student, not all related services may be required for each individual student. Determinations as to the provision of related services must be based on individual student need. A student is not entitled to related services if he or she is not eligible for special education or the parent/adult student does not consent to initial provision of special education services.

EXCEPTION: The IDEA lists some exceptions to related services as they relate to surgically implanted medical devices. See Legal Citations for more information.

Documentation of Special Education and Related Services in the IEP

Each student's IEP shall describe the specific special education and related services and supplementary aids and services based on peer-reviewed research to the extent practicable that will be provided to or on behalf of the student to meet the student's unique needs.

1. The description of special education and related services in the IEP shall include:
 - a. the specific special education or related service to be provided to meet the unique needs of the student, allowing the student to:
 - 1) advance appropriately toward attaining the annual goal(s);
 - 2) be involved and make progress toward the Idaho Content Standards in the general education curriculum;
 - 3) participate in extracurricular and other nonacademic activities; and
 - 4) be educated and participate with students without disabilities to the maximum extent appropriate.

- b. The title of the professional staff responsible for ensuring the provision of the service (“professional staff” means the individual who holds certification from the Idaho Department of Education and/or professional licensure);
 - c. the frequency and duration of the provision of the special education or related service (i.e., minutes per week, per day, or per month);
 - d. the location of the services (i.e., special education environment or general education environment); and
 - e. the start and end date of the special education or related service.
2. The description of services in the IEP shall:
- a. Identify the program accommodations and supplementary aids and services to be provided to the student in the areas of need.
 - b. List the specific services that will meet the unique needs of the student, allowing the student to advance appropriately toward attaining the annual goals, and:
 - 1) be involved in and make progress in the general education curriculum;
 - 2) participate in extracurricular and other nonacademic activities; and
 - 3) be educated and participate with other students with disabilities and with students without disabilities to the maximum extent appropriate.

Based on the unique needs of each student, the IEP team shall consider any services that may be appropriate for the student and shall document such services on the IEP accordingly. The student’s annual goals and the services needed to address those goals will guide the team in the discussion about Least Restrictive Environment (LRE) for the student.

See Section 2H of this chapter and Chapter 6 for more information about LRE.

Note: The IEP should show a clear connection between the student’s goals, the services provided, and all other IEP components.

Note: Nonacademic and extracurricular services and activities may include, but are not limited to, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the LEA, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the LEA and assistance in making outside employment available.

G. Supplementary Aids and Services

Supplementary aids and services are aids, services, and other supports that are provided in general education classes, other education-related settings, and extracurricular and nonacademic settings to enable students with disabilities to be educated with students without disabilities to the maximum extent appropriate in accordance with LRE requirements.

The determination of which supplementary aids and services are appropriate for a particular student shall be made on an individual basis. Supplementary aids and services may include the following: assistance of an itinerant special education teacher, related service provider, or paraprofessional; support or training for the general educator; use of resource services; provision of note takers; supports for extracurricular or other nonacademic activities; and supports for participation in state- or district-wide assessments.

The LEA shall ensure that each student with a disability has the supplementary aids and services determined by the student's IEP team to be appropriate and necessary for the student to participate in nonacademic settings. Supplementary aids and services deemed appropriate by the IEP team shall be provided whether or not the LEA currently has these services in place.

H. Least Restrictive Environment (LRE) and Placement Decisions

Each student with a disability shall be educated with age-appropriate students without disabilities in the general education classroom to the maximum extent appropriate.

The IEP shall explain the extent, if any, to which the student will *not* participate in the general education classroom, the general education curriculum, and/or extracurricular or other nonacademic activities.

In recommending the appropriate placement in the least restrictive environment (LRE) for the student with a disability, the IEP team shall consider the student's annual goals, the services needed to meet those goals, the unique circumstances of the student, and the continuum of services available to meet the student's needs. The parent/adult student shall be involved in the placement decision as an active IEP team member.

Removal from the general education environment shall occur only when the nature or severity of the disability is such that education in general classes with the use of supplementary aids and services cannot be achieved satisfactorily. A student with a disability is not to be removed from age-appropriate general education classrooms solely because of needed accommodations and adaptations in the general education curriculum. Participation in general education curriculum and instruction assumes that the student is participating with same-aged peers.

NOTE: The LEA's reassignment of students (with or without disabilities) to another classroom or building in the LEA is *not* a change of placement for a student with a disability, as long as the IEP goals remain unchanged and the degree of interaction with peers without disabilities remains the same. Examples include, but are not limited to, dividing a class because of overcrowding; moving an entire grade level to a different building; or going to a different school as a result of moving from one grade level to another grade level.

See Chapter 6 for more information on placement decisions in the LRE.

I. Special Considerations

In considering the unique circumstances of the student, the IEP team shall determine whether the student requires other services or supports to make progress toward IEP goals and the Idaho Content Standards in the general education curriculum. As appropriate, the IEP team shall consider the following in the development of the IEP:

3. Transportation

Transportation is a related service provided to a student whose disability requires special arrangements to assist the student in benefiting from special education. The student's individual needs concerning his or her education are the main considerations in determining services—this includes transportation services.

The IEP team shall consider how the student's disability affects his or her need for transportation, including determining whether the student's disability prevents the student from using the same transportation provided to students without disabilities, or from getting to school in the same manner as students without disabilities. This includes transporting a preschool-age student to the site at which the LEA provides special education and related services to the student, if that site is different from the site at which the student receives other preschool or day-care services.

When the IEP team determines that special transportation is required and documents it on the IEP, all procedural safeguards under the IDEA shall be afforded to the student in matters concerning transportation.

Transportation needs may include, but are not limited to, the following:

- a. travel to and from school and between schools to access special education;
- b. travel in and around school buildings;
- c. equipment including lifts and ramps, if required to provide special transportation;
or
- d. other services that support the student's use of transportation, such as:
 - 1) special assistance (e.g., an aide on the bus and/or assistance getting on and off the bus);
 - 2) safety restraints, wheelchair restraints, and/or child safety seats;
 - 3) accommodations (e.g., preferential seating, a positive behavioral support plan for the student on the bus, and/or altering the bus route);
 - 4) training for the bus driver regarding the student's disability or special health-related needs; or

- 5) attending non-academic and extracurricular activities, if required by the IEP.

When considering transportation as a related service, the IEP team should document whether:

- a. The student has no need for transportation as a related service; they may use regular busing WITHOUT individualized supports;
- b. The student will ride the regular bus WITH supports (describe specific supports);
- c. The student will ride the special education bus (describe specific supports); or
- d. The student requires another type of transportation as a related service (describe special transportation).

When a student's IEP team determines that transportation is required for the student to benefit from their special education program, the LEA is responsible for providing transportation as a related service at no cost to the parent/adult student. If the LEA provides an appropriate transportation option and the parent/adult student voluntarily chooses to provide transportation instead, this decision must be documented in the IEP. The IEP should clearly indicate the student's need for special transportation, the parent's decision to transport, and that the LEA remains responsible for providing transportation should the parent/adult student become unable or unwilling to continue. If the parent/adult student agrees to transport and requests reimbursement, the LEA is responsible for reimbursing mileage or other agreed-upon costs. The LEA cannot deny transportation solely because a parent is willing to transport.

2. Extended School Year (ESY) Services

The LEA shall provide extended school year (ESY) services for students with disabilities who qualify for such services, as determined by each student's IEP team. The ESY programs for eligible students shall meet the requirements of FAPE. The student's educational program is based on individual needs and is not determined by what programs are readily available within the LEA. The student cannot be required to fail or to go for an entire school year without ESY services, simply to prove a need. The IEP team shall consider the following in the development and provision of an ESY program:

- a. The term "extended school year services" means special education and/or related services that are provided beyond the regular school year:
 - 1) to a student with a disability;
 - 2) in accordance with the student's IEP; and
 - 3) at no cost to the parent/adult student.
- b. The ESY services shall be considered in light of the totality of the circumstances, including the following:

- 1) **Emerging skill:** Few, if any, gains are made during the regular school year. A skill is in the process of emerging, and the IEP team believes that with ESY services the student would make reasonable gains;
 - 2) **Regression-recoupment:** The student, in the absence of an educational program, will experience significant regression, and the amount of time required to relearn a skill or behavior becomes so significant that the student would be unable to benefit from his or her special education; or
 - 3) **Self-sufficiency:** An interruption in services would threaten the acquisition of critical life skills that aid in the student's ability to function as independently as possible, thereby continuing the student's reliance on caretakers, including institutionalized care. Critical life skills relate to those skills that lead to independent functioning. Development of these skills can lead to reduced future dependency on caretakers and enhance the student's integration with individuals without disabilities. Skills may include toileting, feeding, mobility, communication, dressing, self-help, and social/emotional functioning.
- c. Decisions concerning ESY services shall be based on student performance data and written documentation. Types of data and information may include, but are not limited to, those listed below:
- 1) Criterion-referenced test data: Consider daily/weekly probes or pre-test/post-test data.
 - 2) Norm-referenced test data: Consider pre-test/post-test data.
 - 3) Anecdotal records: Consider information collected throughout the school year.
 - 4) Physical, mental, or emotional health factors: Consider the student's educational, medical, and psychological records as well as the prognosis or judgements of educators, medical personnel, parents, and others who work with the student. Consider degenerative types of difficulties that may become intensified during breaks in educational programming.
 - 5) History: Consider evidence of past regression or past ESY services. The IEP team should not automatically assume that a student who has received ESY services in the past will be eligible for ESY services in the future, but it is a factor to consider.
 - 6) Data on observed performance: Consider data collected regarding the student's performance observed in the classroom, during community-based activities, and as part of IEP progress monitoring.
 - 7) Teacher interviews and recommendations: Consider progress reports by teachers, therapists, and others who have direct contact with the student before and after breaks in educational programming.
 - 8) Parent/Adult student input: Consider parent observations of the student, as well as parent/adult student requests for ESY services.
- d. The ESY services shall be clearly described in the IEP.

- e. The goal of ESY services is to assist students with disabilities with the emergence and maintenance of specific IEP goals addressed during the school year preceding the ESY. These may include goals related to independence, behavior, socialization, communication, and academics. The ESY services for special education students provide a different focus from general summer school programs.

3. **Behavior**

If the student's behavior impedes his or her learning or that of others, the IEP team shall consider the use of positive behavioral interventions and supports and other strategies to address that behavior, including a formal Behavior Intervention Plan (BIP), if needed.

4. **Limited English Proficiency**

If the student has limited English proficiency, the IEP team shall consider the language needs of the student.

5. **Blind or Low Vision**

If the student is blind or has low vision, the IEP team shall provide for instruction in Braille and the use of Braille unless the IEP team determines that Braille is not appropriate for the student. This determination can only be made after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille).

6. **Deaf or Hard of Hearing**

The IEP team must consider the specific type and degree of hearing loss, as well as the technology a student uses, to support their communication and learning needs effectively.

Schools are required to perform routine checks of hearing aids and external components of surgically implanted medical devices, such as cochlear implants and bone-anchored hearing aids, to ensure these hearing assistive technology devices are functioning properly.

7. **Communication Needs**

The IEP team shall consider the communication needs of the student, including students with communication disorders, students requiring augmentative and alternative communication (AAC), and students requiring interpretation services. The IEP team shall consider the language and communication needs of the student, opportunities for direct communication with peers and professional personnel in the student's language and communication mode, the student's academic level, and his or her full range of needs including opportunities for direct instruction in the student's language and communication mode.

8. **Health Care Needs**

The IEP team shall consider the student's health care needs. When applicable, these needs should be documented and addressed in the IEP. This may mean inclusion in

goals, services, accommodations, or other components of the IEP, or the inclusion of a formal Health Care Plan.

J. Accommodations, Adaptations, and Assistive Technology

Accommodations and adaptations include any changes that allow students with disabilities the same opportunity as students without disabilities to participate in and benefit from the educational program, activities, and services of the LEA.

Modifications include accommodations and adaptations. Idaho uses the terms accommodations and adaptations to describe two separate instructional and assessment practices.

1. **Accommodations:** Accommodations are changes in the curriculum, instruction, or testing format or procedures that enable students with disabilities to participate in a way that allows them to demonstrate their abilities rather than disabilities. Accommodations are generally considered to include assistive technology, as well as changes in presentation, response, timing, scheduling, and settings that do not fundamentally alter the grade-level standard requirements.

Examples include Braille editions, large print, pencil grips, audio recording, note takers, and computers with spell check. Accommodations do not include changes that invalidate assessment results and must not fundamentally alter the grade level requirements of the Idaho Content Standards.

2. **Adaptations:** Adaptations are changes to curriculum, instruction, or assessments that fundamentally alter the grade level requirements of the Idaho Content Standards but enable a student with a disability that significantly impacts performance an opportunity to participate. Adaptations include strategies such as reading the reading portion of a test, using spelling/grammar check for language arts assessments, and substituting out-of-level testing. Other examples include fewer concepts to be mastered, different test questions, and material at a different reading level. Adaptations invalidate assessment results and provide non-comparable results.
3. **Assistive Technology:** The LEA shall ensure that assistive technology devices and/or services are made available to a student, if required, as special education, related services, or supplementary aids and services.
 - a. “Assistive technology device” means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a student with a disability. The term does not include a device that is surgically implanted or the replacement of such a device.
 - 1) The LEA shall permit the student to use school-purchased assistive technology devices at home and in other settings if the IEP team determines that the student needs access to these devices in non-school settings to receive FAPE. An example of this would be to complete homework. The LEA may

hold a parent/adult student responsible for the replacement or repair of an assistive technology device that is purchased or otherwise procured by the LEA if it is lost, stolen, or damaged because of negligence or misuse at home or in another setting outside of school.

- b. “Assistive technology service” means any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. The term includes the following:
- 1) an evaluation of the student’s assistive technology needs, including a functional assessment in the student’s customary environment;
 - 2) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices;
 - 3) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
 - 4) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
 - 5) training or technical assistance for a student with a disability or, if appropriate, that student’s family; and
 - 6) training or technical assistance for professionals, including individuals providing education or rehabilitation services, employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of a student with a disability.
- c. The LEA shall ensure that the hearing technology worn by students who are deaf or hard-of-hearing in school is functioning properly.

See Legal Citations for IDEA reference.

- d. The LEA is responsible for appropriately monitoring and maintaining medical devices appropriately monitoring and checking surgically implanted devices to make sure the devices are functioning properly, if the team has determined that those services are necessary. This responsibility applies to devices that are needed to maintain the health and safety of the student, including breathing, nutrition, or operation of other bodily functions, while the student is at school or being transported to and from school. The L will ensure that the external components of surgically implanted medical devices are functioning properly, but is not responsible for the post-surgical maintenance, programming or replacement of the medical device that has been surgically implemented, or of an external component of the surgically

implanted medical device. IDEA lists some responsibilities related to surgically implanted medical devices.

See Legal Citations for more information.

K. Statewide and Districtwide Achievement Testing

Students with disabilities shall participate in all state- and district-wide assessments. Participation rates and performance data, both aggregate and disaggregate, for students with disabilities, are reported to the public annually.

The IEP team shall determine how the student will participate in state- and district- wide assessments: without accommodations, with supports and accommodations, or by means of an alternate assessment based on alternate academic achievement standards. The IEP team determines the supports and accommodations a student will use based on those that are used regularly by the student during instruction or classroom testing and on what is documented in the accommodations section of the IEP.

The following guidelines shall be used to determine how the student will participate in state- and district-wide assessments:

1. General Assessment without Accommodations

The IEP team determines and documents in the IEP that a student with a disability can adequately demonstrate his or her knowledge, abilities, or skills on state- and district-wide assessments without accommodations.

2. General Assessment with Supports and Accommodations

Appropriate supports and accommodations for students with disabilities shall be based on the individual needs of each student. Supports and accommodations decisions are made by the IEP team and shall be recorded in the IEP. Accommodations should facilitate an accurate demonstration of academic achievement, developmental, and functional performance on state- and district-wide assessments. They should not provide the student with an unfair advantage or change the underlying skills that are being measured by the test. Supports and accommodations shall be the same or nearly the same as those used by the student in completing classroom assignments and assessment activities. The supports and accommodations shall be necessary for enabling the student to demonstrate knowledge, ability, skill, or mastery of academic content.

Accommodations *must not* invalidate test results. The LEA must follow state-wide guidelines and establish district-wide guidelines. The LEA's guidelines must:

- a. Identify only those accommodations for each assessment that do not invalidate the score; and
- b. Instruct IEP teams to select, for each assessment, only those accommodations that

do not invalidate the score.

Students taking state- and district-wide assessments with supports and/or accommodations shall be given opportunities to practice and become familiar with said supports and/or accommodations in the relevant test delivery system before they begin testing.

1. Alternate Assessments based on Alternate Academic Achievement Standards. Alternate assessments are statewide testing options intended only for those students with the most significant cognitive disabilities, in lieu of the general education assessment, with or without supports and accommodations. Participation in alternate assessments reflects the pervasive nature of significant cognitive disabilities and requires that a student meet all participation eligibility criteria. Students with the most significant cognitive disabilities represent about 1% of the total student population. The IEP team shall consider a student's participation in alternate assessments on an annual basis using the participation criteria listed below. The IEP team shall document the student's testing status in the appropriate sections of the IEP.
 - a. A student must meet **all four** of the following participation criteria to qualify for an alternate assessment.
 - 1) The student has a significant cognitive disability.
 - i. Definition of significant cognitive disability: A designation given to a small number of students with disabilities for the purposes of their participation in alternate assessments. Having a significant cognitive disability is not solely determined by an IQ test score nor based on a specific disability category, but rather a complete understanding of the complex needs of a student. Students with significant cognitive disabilities have a disability or multiple disabilities that significantly impact their adaptive skills and intellectual functioning. These students have global adaptive skills significantly below average and intellectual functioning well below average (typically associated with an IQ below 55). Severe and global adaptive deficits are at least two (2) standard deviations below the mean as measured by a norm-referenced assessment of adaptive skills using the global adaptive score.
 - a. This reference to an IQ typically below 55 is not intended to be a hard cut score, but to provide IEP teams with guidance.
 - b. In circumstances when an IQ score cannot be obtained, the IEP team may use a preponderance of evidence to determine if a student has a significant cognitive disability. If, due to the severity and complexity of a student's disability, an IQ score cannot be obtained, the school

psychologist may determine the presence of a significant cognitive disability using a preponderance of evidence, which must include:

1. an explanation why an IQ score cannot be obtained;
 2. evidence supporting the presence of a significant cognitive disability; and
 3. scores indicating severe and global adaptive deficits at least two (2) standard deviations below the mean as measured by a norm-referenced assessment of adaptive skills using the global adaptive score.
 - c. This provision is not to be used for students who are unable or unwilling to participate in an assessment solely due to behavior.
- 2) The student is receiving functional academic instruction at a level that is not typically measured by the Idaho Content Standards.
 - i. The student's instruction and IEP goals/objectives/benchmarks address knowledge and skills that are appropriate and challenging for the student.
- 3) The student's course of study is primarily focused on adaptive skills typically not measured by grade-level state or district assessments.
 - i. Adaptive skills are essential to living independently and functioning safely in daily life, and include, but are not limited to motor skills, socialization, communication, personal care, self-direction, functional academics, and personal health and safety.
- 4) The student requires extensive, direct, individualized instruction and substantial supports to achieve measurable gains in the grade- and age-appropriate curriculum.
 - i. The student consistently requires individualized instruction in core academic and adaptive skills at a substantially lower level relative to other peers with disabilities.
 - ii. It is extremely difficult for the student to acquire, maintain, generalize, and apply academic and adaptive skills in multiple settings, across all content areas, even with high-quality, extensive, intensive, pervasive, frequent, and individualized instruction.

- iii. The student requires pervasive supports, substantially adapted materials, and individualized methods of accessing information in alternative ways to acquire, maintain, generalize, demonstrate, and transfer skills across multiple settings.
- b. Students shall not qualify to participate in an alternate assessment solely based on any of the following reasons:
- 1) Having a disability;
 - 2) Poor attendance or extended absences;
 - 3) Primary language, or social, cultural or economic differences;
 - 4) Expected poor performance or past basic/below basic performance on the regular education assessment;
 - 5) Academic and other services the student receives;
 - 6) Educational environment or instructional setting;
 - 7) Percent of time receiving special education services;
 - 8) English Learner (EL) status;
 - 9) Low reading level and/or low achievement level;
 - 10) Anticipated disruptive behavior;
 - 11) Impact of student scores on the accountability system;
 - 12) Administrative decision;
 - 13) Anticipated emotional distress; and/or
 - 14) Need for accommodations (e.g., assistive technology/AAC) to participate in the assessment.

L. IEPs for Children in Early Childhood Programs

Beginning at age three (3) until eligible to enroll in kindergarten, students with disabilities are served through Early Childhood (EC) programs in schools and within the community. In Idaho, kindergarten eligibility begins when the student turns five (5) years old on or before September 1st of the school year. All requirements of IDEA and this manual apply to EC IEPs; however, EC IEPs have additional requirements as outlined in this section.

Early Childhood Outcomes (ECO)

To ensure that students receive high quality education and services in EC Programs, IEP teams assess and report on three Early Childhood Outcomes (ECO) at entry into the EC program and prior to exit from the program. These ECOs include:

1. ECO 1: Positive Social-Emotional Skills, including Social Relationships;
2. ECO 2: Acquiring and Using Knowledge/Skills, including Communication and Early
 - 1) Literacy; and
3. ECO 3: Taking Appropriate Action to Meet Needs.

Each IEP goal and service shall relate to one or more of these outcomes, based on the guidelines in this section.

1. **Obtaining ECO Ratings**

- a. Department-Approved Anchor Assessment: The IEP team shall use a Department-approved anchor assessment to establish an ECO rating at entry to and exit from an EC program if the student will be in the EC program for longer than six months.
- b. ECO Entry Rating: An ECO entry rating for each outcome area shall be reported on the initial IEP for each student entering an EC program. The IEP team must use a Department-approved anchor assessment to establish the ECO entry rating. If the student will be in the program for less than six (6) months, an entry rating is not required.
- c. ECO Exit Rating: An ECO rating for each outcome area shall be reported prior to exit from the EC program. The IEP team must use a Department-approved anchor assessment to establish the ECO exit rating. If the student has been in the program for less than six (6) months, an exit rating is not required.
- d. Early Childhood Outcome (ECO) Ratings: ECO ratings should be reported annually with the annual IEP review. ECO ratings indicate the student's performance in each of the outcome areas and rate skills from 1 to 7 based on skill development as foundational, immediate foundational, or age-appropriate. The student's IEP team shall reference Early Childhood Technical Assistance (ECTA) Center resources to make these determinations.

Foundational (F): Skills and behaviors that occur earlier in development and serve as the foundation for later skill development.

- 1) Immediate Foundational (IF): Child shows functioning that might be described as that of a slightly younger child. The child exhibits skills that are conceptually linked to later skills and immediately precede the later skills developmentally.

- 2) Age-Appropriate (AA): Child shows functioning expected for his or her age in all or almost all the everyday situations that are part of the child's life.

2. Early Childhood IEP Goals

a. Components of a Goal

- 1) Present Levels of Academic Achievement and Functional Performance (PLAAFPs) are required for EC IEPs and are addressed with ECO ratings. To establish ECO ratings, the IEP team must discuss parent concerns and discuss and analyze current student skills in each outcome area.
- 2) All other components of an IEP goal such as student need, baseline data, annual goals, procedure and schedule for data collection, and reporting on progress shall meet the same requirements as a K-12 IEP.

b. General Education Standards

- 1) Each annual goal in an EC IEP shall be developed with the purpose of ensuring student progress toward general education standards that apply to all students. For EC programs, general education content standards are outlined in the *eGuidelines*.

3. Least Restrictive Environment (LRE) Reporting

Each EC IEP requires reporting of an appropriate LRE code based on the type of EC program the student participates in, where special education and related services are received, and the amount of time the student spends in a non-special education environment. EC LRE codes include:

- a. **Regular Early Childhood Program (10+ hours per week):** Student attends a regular early childhood program at least 10 hours per week and receives the majority of special education and related services in the regular early childhood program.
- b. **Regular Early Childhood Program (10+ hours per week and Other Location):** Student attends a regular early childhood program at least 10 hours per week and receives the majority of special education and related services in some other location.
- c. **Regular Early Childhood Program (<10 hours per week):** Student attends a regular early childhood program less than 10 hours per week and receives the majority of special education and related services in the regular early childhood program.
- d. **Regular Early Childhood Program (<10 hours per week and Other Location):** Student attends a regular early childhood program less than 10 hours per week and receives the majority of special education and related services in some other location.

- e. **Separate Special Education Class:** Student attends a special education program that is not a regular early childhood program.
- f. **Separate School:** Student receives special education in a public or private day school designed specifically for children with disabilities.
- g. **Residential Facility:** Student receives all special education and related services in a public or private facility.
- h. **Service Provider Location (or some other location not in any other category):** Student receives all special education and related services from a service provider and does not attend a special education program in any regular early childhood program.
- i. **Home:** Student receives special education and related services in the principal residence of the child's family or caregiver and does not attend a regular early childhood program or a special education program.

M. Additional Transition Components for Secondary-Level IEPs

Secondary transition services are defined as a coordinated set of activities for a student with a disability that are designed within a results-oriented process focused on improving the academic and functional achievement of the student to facilitate movement from school to post school activities including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The activities include instruction, related services, community experiences, development of employment and other post school adult-living objectives and, if appropriate, acquisition of daily living skills and a functional vocational evaluation. These activities are based on the individual student's needs, taking into account the student's strengths, preferences, and interests. The following are required components for all secondary students receiving special education services.

1. Beginning with the IEP to be in effect when a student is sixteen (16) years old (or younger if determined appropriate by the IEP team), the IEP team shall:
 - a. include present levels of academic and/or functional performance as they relate to the student's postsecondary goals in the IEP;
 - b. conduct an age-appropriate transition assessment or functional vocational evaluation;
 - c. include appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills in the IEP;
 - d. include transition services, including a course of study, that will reasonably enable the student in reaching postsecondary goals identified on the IEP which may include postsecondary education and training, employment and career counseling, community participation, independent living or adult services in the IEP;

- e. provide evidence that the student was invited to the IEP team meeting where transition services are to be discussed; if the student does not attend the IEP team meeting, the IEP team must take other steps to ensure the student's preferences and interests are considered;
- f. provide evidence that a representatives of any participating agency was invited to the IEP team meeting with written consent of the parent/adult student;
- g. include the graduation requirements for the student receiving special education services in the IEP; and

See Chapter 7 for more detailed information on documentation of high school graduation in the IEP.

- h. ensure the postsecondary goals and transition services shall be updated on the IEP annually.
2. Not later than the student's seventeenth (17th) birthday, the IEP shall include a statement that the student and parent have been informed that special education rights will transfer to the student on his or her eighteenth (18th) birthday. Special education rights will transfer from the parent to the student when the student turns eighteen (18) years old unless the IEP team determines that:
- a. there is sufficient basis for denial of transfer of rights to the student, meaning the student is unable to provide informed consent with respect to his or her special education program; or
 - b. the parent has obtained legal guardianship.
3. The IEP shall contain a statement referring to the transfer or non-transfer of rights:
- a. If the team determines that there is no relevant information about the student to prohibit the transfer of rights at age eighteen (18), the student's IEP shall contain a statement that the student has been informed that special education rights will transfer to the student.
 - b. If the IEP team determines that the student lacks the ability to provide informed consent with respect to his or her educational program, a statement will be included in the IEP indicating that the parent, or other individual if the parent is not available, will retain all special education rights after the student reaches age eighteen (18).
 - 1) Basis for Denial of Transfer: During the IEP team meeting to discuss the transfer of rights, the IEP team will use the following as the basis for any denial of the transfer:
 - i. Evaluation data, test results, written reports, teacher observation, education records, and parent input, including whether the parent intends to seek guardianship.

ii. Answers to the following questions:

- a. Is the student capable of understanding his or her rights?
 - b. Is the student capable of exercising his or her rights?
 - c. Is the student capable of understanding the consequences and impact of his or her decisions?
- c. Following the Transfer of Rights: When the student's special education rights transfer at age eighteen (18), the parent and student will be informed that rights have transferred. The parent may still be invited to participate as an individual who has knowledge or special expertise regarding the adult student.

See Chapter 12 for more information on the transfer of student rights.

3. When a student exits from special education as a result of meeting the Idaho Content Standards and such applicable LEA graduation requirements or aging out, the LEA shall provide the student with a summary of his or her academic achievement and functional performance along with recommendations concerning how to assist the student in meeting postsecondary goals.

N. Consent for Initial Provision of Special Education and Related Services

The LEA shall make reasonable efforts to obtain informed written consent from the parent/adult student before the initial provision of special education and related services for the student.

If the parent/adult student communicates in writing that he or she refuses special education and related services following the evaluation and eligibility determination, the LEA shall not provide special education and related services to the student. If the parent/adult student fails to respond to an LEA's documented efforts to gain consent for initial provision of special education and related services, the LEA shall not provide special education and related services to the student. In both cases:

1. The LEA shall not be in violation of the requirement to provide FAPE to the student or the requirement to provide special education and related services;
2. The LEA shall not be required to convene an IEP team meeting or develop an IEP for the student; and
3. The LEA shall not use mediation and/or due process in order to obtain consent or a ruling allowing initial placement.

If the parent/adult student wishes to move forward with the provision of services proposed on the IEP and placement in special education, consent for initial placement in special education shall be obtained. Consent occurs when the parent/adult student agrees in writing, as indicated by a signature, to the carrying out of the activity for which consent is sought.

See Chapter 4 for more information on parent/adult student consent.

O. Parent/Adult Student Objection to the IEP

If the parent/adult student disagrees with an IEP team's proposed IEP for the student, the parent or adult student may file a written objection to all or parts of the proposed IEP.

Either party retains the right to exercise procedural rights under the IDEA. The LEA and parent/adult student may use methods such as additional IEP team meetings, IEP facilitation, or Department mediation to resolve the disagreement. If these attempts to resolve the dispute fail or are refused, the proposed IEP shall be implemented unless a due process hearing request is filed by either party to obtain a hearing officer's decision regarding the proposed IEP, unless it is an initial IEP.

A written objection cannot be used to prevent the LEA from placing a student in an interim alternative educational setting (IAES) in accordance with the IDEA procedures for discipline of a student, or to challenge an eligibility/identification determination.

See Chapter 12 for information about the written notice requirements regarding the provision of FAPE and educational placement.

See Chapter 13 for more information about the various forms of dispute resolution including facilitation and mediation.

P. Following the Meeting

Following the IEP team meeting, a copy of the IEP and written notice of proposed or refused actions shall be given to the parent/adult student. IEPs and written notice shall also be given to the parent/adult student whenever a change is made to the IEP. A parent/adult student may also request a copy of an IEP and written notice at any time.

Each general education teacher, special education teacher, related service provider, and any other service provider who is responsible for implementing any portion of the IEP shall have access to the IEP and be informed of his or her specific responsibilities. This includes being informed of any specific accommodations, adaptations, or supports that shall be provided to the student to ensure that the IEP is implemented appropriately.

Section 3. IEP Reviews

A. Annual Reviews

Each student's IEP shall be reviewed ~~at least annually~~ by the IEP team, at least annually, which means once every ~~year~~ (365 days). Meetings may be held any time throughout the school year, as long as the IEP is reviewed annually and is in effect at the beginning of each school year. ~~Either at or after~~ After the annual review, written notice that the new IEP changes will be implemented shall be provided to the parent/adult student.

~~The~~ An IEP review may include ~~includes the following purposes:~~

1. to determine whether the student's annual goals have been achieved;
2. to revise the IEP if there is any lack of expected progress toward annual goals and in the general education curriculum, where appropriate;
3. to determine whether any additional assessments are necessary and to address the results of those conducted;
4. to address information regarding the student provided to the team; ~~about the student that has been provided to, or by, the parent/adult student;~~
5. to address the student's anticipated needs;
6. to monitor the continuing eligibility of the student based on an evaluation or review of a variety of data, which may include formal or informal assessment, progress toward IEP goals and, when applicable, objectives and benchmarks;
7. to write a new IEP; and
8. to consider a reevaluation to determine if a student is no longer eligible and special education services should be discontinued.

B. IEP Amendments

~~In making changes to a student's IEP after the annual IEP team meeting for a school year, If~~ changes to a student's IEP are needed after the annual IEP meeting has been held, the parent/adult student and the ~~district~~ LEA may agree in writing not to convene an IEP team meeting for the purposes of making such changes, and instead may develop a written document to amend the student's current IEP. The parent/adult student will be provided with a revised copy of the IEP and written notice documenting the changes made. ~~with the amendments incorporated.~~ The annual review date remains the date of the original IEP.

Each general education teacher, special education teacher, related service provider, and any other service provider who is responsible for implementing any portion of the amended IEP shall have access to the amended IEP and be informed of his or her specific responsibilities.

If the parent/adult student believes that the student is not progressing satisfactorily or ~~that there is a problem with~~ has concerns about the current IEP, ~~he or she may~~ the parent/adult student may request an IEP team meeting. The ~~district~~ LEA shall grant any reasonable request for such a meeting. If the ~~district~~ LEA refuses to convene an IEP team meeting requested by the parent/adult student, the ~~district~~ LEA shall provide written notice to the parent/adult student, including an explanation of why the ~~district~~ LEA has determined the meeting is unnecessary.

If any other member of the IEP team feels that the student's placement or IEP services are not appropriate, that team member may request an IEP team meeting.

~~Each general education teacher, special education teacher, related service provider, and any other~~

~~service provider who is responsible for implementing any portion of the amended IEP shall have access to the amendment and be informed of his or her specific responsibilities.~~

~~(b) Section 4. IEPs for Transfer Students~~

~~Idaho Administrative Procedures Act [IDAPA 08.02.03.109.04(f)] requires the new (receiving) district to request a copy of the eligibility documentation and most current IEP within two (2) school days. Within five (5) school days of receiving this information, the new district determines if a new assessment is required. If the district disagrees with the existing eligibility documentation or if the documentation is not available within a reasonable time period, e meantime, if the parent agrees, an interim IEP may be developed and implemented, or the existing IEP implemented. If there is no agreement, the student is placed in general education. Within fourteen (14) calendar days the receiving district will request the full educational record of the transferring student from the former school.~~

A. —Transfer from an Idaho School District

~~When a student with a disability transfers school districts in with a current IEP in Idaho, the district shall provide the student with FAPE. This includes services comparable to those described in the previously held IEP, in consultation with the parent/adult student, until such time as the district adopts implements the previously held IEP or develops, adopts, and implements a new. The receiving district shall request, as soon as possible, but no more than two (2) school days, the eligibility documents and the most current IEP from the sending district. Once the district has formally received a request for a student's record from another Idaho district, the district shall forward copies or the original documents as soon as possible, but no more than five (5) school days, of the request. Within fourteen (14) calendar days the receiving district will request the full educational record of the transferring student from the former school. If originals are sent, the sending district shall maintain a copy for audit purposes.~~

~~Note: The current IEP shall be implemented if a new IEP cannot be developed within five (5) school days of the student's enrollment or if a reevaluation will be taking place.~~

B. —Transfer from an Out-of-State District

~~When a student with a disability transfers from out of state to an Idaho school district with a current IEP in that other state, the district shall provide the student with FAPE. This includes services comparable to those described in the previously held IEP, in consultation with the parent/adult student, until such time as the district conducts an evaluation, if determined necessary, and develops, adopts, and implements a new IEP or.~~

C. —Transfer to an Out-of-State District

~~Within ten (10) school days of receiving a request from an school district for copies of eligibility documentation and a transferring student's IEP, a district shall send the requested information to the receiving district.~~

Section 4. Transfer Process and Timelines

When a student with a disability transfers LEAs within Idaho or outside of Idaho, there are requirements around timely transfer of records, decision-making, and IEP implementation, as outlined below.

A. Timelines for Document Requests and Transfers

1. The receiving LEA shall request, as soon as possible but within no more than two (2) school days of the student's enrollment in the LEA, the eligibility documents and the most current IEP from the sending LEA.
2. Once an LEA has received a request for a student's record from another Idaho LEA, the sending LEA shall provide the student's special education records as soon as possible, but within no more than five (5) school days of the request. The records must include, at a minimum, the student's most recent IEP and eligibility documentation. LEAs shall retain originals or copies of the most recent five (5) years of programmatic and fiscal records.
3. Within fourteen (14) calendar days the receiving LEA will request the full educational record of the transferring student from the former school. LEAs shall retain originals or copies of the most recent five (5) years of programmatic and fiscal records.
4. The current IEP, a new annual IEP, an amended IEP, or an interim IEP shall be implemented within five (5) school days of the student's enrollment.
5. If eligibility documentation is not received within a reasonable time period, written consent for a reevaluation shall be sought. During the reevaluation process, the LEA shall implement an interim IEP to provide services comparable to those provided in the student's most recent IEP.

B. Transfer Process for Reviewing and Determining Eligibility

The IEP team, which includes the parent/adult student, shall review eligibility documentation to determine whether the documentation reflects eligibility for special education or whether a reevaluation is required.

1. When a student transfers from another Idaho LEA and eligibility documentation is current, the team shall presume eligibility and proceed to the review of the IEP.

Note: The purpose of the Transfer Process is to make decisions about the student's eligibility status and ensure services begin immediately upon enrollment. If, during this process, the team determines that the documentation does not meet the Department's expectations for General Supervision File Review (GSFR), the team should complete the

Transfer Process and proceed to consider whether a reevaluation is needed using the Reevaluation Consideration process and the associated form.

2. When a student transfers from an LEA outside of Idaho and eligibility documentation is current, the team shall determine whether the documentation is sufficient to demonstrate that the student meets Idaho criteria for special education. If documentation is sufficient, the team shall proceed to the review of the IEP.
3. When a student transfers from an LEA outside of Idaho and eligibility documentation is not sufficient to demonstrate that the student meets Idaho criteria for special education, the team shall seek written consent for a reevaluation and immediately develop an interim IEP to be implemented while the reevaluation is completed. Within ~~sixty (60)~~ **calendar** ~~forty-five (45) school~~ days the reevaluation shall be completed, and the IEP team shall develop a new IEP based on the reevaluation results or exit the student from special education services if the student does not meet Idaho eligibility criteria.
4. If eligibility documentation is expired, whether from an LEA within or outside of Idaho, the team shall seek written consent for a reevaluation and immediately develop an interim IEP to be implemented while the reevaluation is completed. Within ~~sixty (60)~~ **calendar** ~~forty-five (45) school~~ days the reevaluation shall be completed, and the IEP team shall develop a new IEP based on the reevaluation results or exit the student from special education services if the student does not meet Idaho eligibility criteria.

C. Transfer Process for Reviewing and Implementing the IEP

1. If, based on the review of eligibility documentation described above, the student is eligible for special education and related services, the IEP team shall make one of three (3) decisions:
 - a. Implement the student's current IEP as written;
 - b. Implement the student's current IEP with amendment(s); or
 - c. Develop and implement a new IEP.
2. If, based on the review of eligibility documentation described above, the IEP team has initiated a reevaluation to determine continued eligibility in Idaho, the team shall develop an interim IEP to address the student's needs while a reevaluation is conducted.
 - a. An interim IEP is a temporary program developed by the IEP team to be implemented for fewer than 365 days. Typically, an interim IEP is implemented while a reevaluation is conducted or additional information is gathered.

- b. In the case of transfer students, the interim IEP shall not be implemented for more than ~~sixty (60)~~forty-five (45) school days while a reevaluation is conducted.

Section 5. ~~IEPs~~ Transition Process for Children from the Infant/Toddler Program (ITP)

A. Interagency Agreement and Protocols

The school district, as the local lead agency for Part B, shall initiate the development of a signed interagency protocol with the regional Infant/Toddler Program (ITP) of the Department of Health and Welfare (DHW), the lead agency under Part C of the IDEA. The protocol shall be in accordance with the current state *Interagency Agreement for Early Childhood Special Education Services* and *Early Intervention for Children Ages Two through Five*.

The protocol will outline the obligations of each agency to ensure:

1. a smooth and effective transition of children served under Part C to early childhood special education ~~services~~(ECSE) ~~services~~ under Part B;
2. by the child's third birthday, eligibility for Part B services has been determined and an IEP or Individual Family Service Plan (IFSP) has been developed and implemented; and
3. each district and agency shall participate in transition planning conferences.

NOTE: A child, who turns three (3) after May 1, has been determined eligible for Part B services, and for whom written parental consent has been obtained for initial placement for Part B services, can be served as outlined in the IFSP by the ITP until school starts in the fall. This is the case unless specified differently in the local interagency protocol.

B. Part C to Part B Transition Planning

In the case of a child who may be eligible for ECSE services, the district shall participate in a transition planning conference with the family arranged by the ITP. The conference will be conducted at least ninety (90) calendar days (and up to nine (9) months at the discretion of all parties) before the child's third (3rd) birthday to discuss eligibility requirements under Part B of the IDEA, needs and concerns of the child and family, and any services the child may receive.

The ITP has the responsibility to:

1. notify the school district and ~~SDE~~ the Idaho Department of Education of potentially eligible children;
2. invite and coordinate a transition planning meeting to review the process to determine eligibility and assess service options available;
3. obtain a signed *Authorization to Exchange Confidential Information*;
4. establish a plan for facilitating the transition of the toddler with a disability to early

childhood special education services;

5. provide the district with **the** current IFSP, all addendums/outcomes **relevant** to the most recent IFSP, other progress reports, **and any** evaluations and assessments ~~if~~ **completed** within the last six months; and
6. upon invitation, attend the initial IEP team meeting.

The school district has the responsibility to:

1. ~~make contact with~~ **contact** the family and provide notice of procedural safeguards and written information about the Part B and early childhood special education services (this information may be ~~provide~~ **provided** in person, at a transition conference, **by electronic means**, or by mail);
2. attend and participate in the transition planning meeting;
3. determine eligibility and develop an IEP or IFSP prior to **the** child's third (**3rd**) birthday;
4. invite ITP representatives, at the request of the parent, to the initial IEP team meeting; and
5. obtain consent for initial provision of special education and related services under Part B.

C. IEP or IFSP Required

1. By the child's third (**3rd**) birthday, the district shall have an IEP or IFSP in place for each student three (3) through five (5) years old who is eligible for ECSE services.
2. In developing the IEP, the IEP team shall consider the content of the IFSP including:
 - a. the least restrictive environment statement; and
 - b. the educational component that promotes school readiness, pre-literacy, language, and numeracy skills.
3. The IFSP may serve as the IEP of the child, if:
 - a. agreed by the district and the child's parents;
 - b. a detailed explanation of the differences between the IFSP and the IEP is provided to the parents);
 - c. parental written informed consent is obtained; and
 - d. **the IFSP is** developed according to the IEP procedures outlined in Section 2 of this chapter. If the district elects to use an IFSP, the district is required to implement only the educational components of the IFSP.

D. Consent and Notice Requirements

1. Notice Announcing Initial IEP Team Meeting: The district shall inform the parents of their rights to request the participation of ITP representatives at the initial IEP team meeting for children previously served by Part C.
2. ~~Release of Information~~ Authorization to Exchange Confidential Information: The district shall ensure that ~~obtain~~ written parental consent for the ~~release~~ exchange of confidential information ~~has been obtained~~ ~~to obtain~~ prior to exchanging pertinent student records from non-educational agencies such as ITP, developmental disabilities agencies, medical providers, day-care centers, and Head Start.
3. Assessments: At the transition planning conference, if further assessments are necessary to determine eligibility, the student's present levels of academic achievement and functional performance, and/or goals or services on the IEP, informed consent to evaluate is required. ~~(Parental consent for assessment under Part B is required even though the parent may have given consent earlier under Part C).~~ Otherwise, only written notice to inform the parent of the district's decision to use the current evaluation data, and not to conduct any further assessments, shall be provided to the parent. The parent shall also be informed of his or her right to request additional assessments.
4. Consent for Initial Provision of Special Education and Related Services: ~~Parental~~ Written parental consent for the initial provision of special education and related services and written notice for the implementation of the IEP or IFSP under Part B is required. Eligibility, initial provision of services, and LRE placement shall be documented for Part B services.

Section 7 6. Students with Disabilities in Adult Prisons

The following provisions ~~requirements~~ apply for students with disabilities ages eighteen (18) through ~~to the day before the student's twenty-second (22nd) birthday~~ semester in which the student attains the age of ~~when they turn~~ twenty-one (21) years who are convicted as adults under Idaho law and incarcerated in adult prisons:

1. A student identified as a student with a disability, who is eligible for special education, and who is convicted as an adult and incarcerated in an adult prison, is not subject to ~~child find~~, Child Find.
2. ~~but if~~ If already identified, the student is entitled to FAPE ~~until~~ through the semester in which the student attains the day before the student's twenty-second (22nd) birthday age of twenty-one (21) years.
3. The student will not participate in statewide assessments.
4. Transition planning and services do not apply if the student will remain in prison beyond the end of the day before the student's twenty-second (22nd) birthday. semester in which the student attained the age of twenty-one (21) year ~~of his or her twenty-first (21st)~~

birthday.

5. The IEP team may revise the student's IEP and placement, regardless of the LRE requirements, if the state has demonstrated a bona fide security or other compelling penological interest that cannot otherwise be accommodated.

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CHAPTER 6: LEAST RESTRICTIVE ENVIRONMENT

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CHAPTER 6: LEAST RESTRICTIVE ENVIRONMENT

The IDEA states that, to the maximum extent appropriate, all students with disabilities, ~~ages three (3) to through the day before the student's twenty-second (22nd) birthday~~ ~~semester in which the student attains the age of twenty-one (21) years of age~~, are to be educated with age-appropriate peers who are nondisabled. This is known as the least restrictive environment (LRE). The LRE is the appropriate balance of settings and services to meet the student's individual needs. The ~~district~~ LEA shall have an array of services and a continuum of educational setting options available to meet the individual LRE needs of each student.

See Section 2 of this chapter for information on the continuum of settings and services.

An appropriate LRE is one that enables the student to make reasonable gains toward goals identified in an individualized education program (IEP) while being educated with peers who are nondisabled to the maximum extent appropriate as determined, ~~on a case-by-case basis~~ ~~will or~~ ~~cannot be achieved satisfactorily~~, by the IEP team ~~on a case-by-case basis~~. The student's IEP shall indicate the LRE for the student and explain to what extent, if any, the student ~~will or~~ will not participate in the general education classroom environment, the general education curriculum, and extracurricular or other nonacademic activities. This provision includes students with disabilities placed in public or private institutions or other care facilities.

Special classes, separate schooling, and other removals of a student with a disability from the general education environment may occur only when the nature or severity of the disability is such that education in the general education ~~class environment cannot be achieved satisfactorily~~, even with the use of supplementary aids and services ~~cannot be achieved satisfactorily~~.

See Chapter 5, Section H for more information on LRE.

Section 1. Least Restrictive Environment Considerations

A. When to Make and Review Placement Decisions

Placement determinations are made under the following circumstances:

1. Placement decisions for a student with a disability are made following the determination of the ~~student's~~ individual needs, goals, and required services.
2. Placement decisions ~~shall be reviewed~~ ~~are revisited~~ at least annually by the IEP team, which includes the parent/adult student, ~~LEA representative, general education teacher, special education teacher or provider~~, and other persons ~~who are~~ knowledgeable about the student, ~~the meaning of can interpret the~~ evaluation data, and ~~are knowledgeable about~~ the placement options available.
3. Placement decisions ~~shall be~~ ~~are~~ reconsidered, as appropriate, when an IEP team is convened to review a student's academic, functional, or developmental progress.

B. Considerations in Placement Decisions

~~LRE decisions are made, at least annually, individually for each student.~~ LRE decisions shall be

made on an individual basis for each student at least annually. The IEP team shall consider the following when determining the LRE in which the IEP can be implemented:

1. IEP Goals and Services: The student's goals and services are developed prior to the determination of the services and settings. ~~The services and settings needed by each student with a disability must be based on the student's unique needs that result from his or her disability, not on the student's category of disability.~~ The services and settings needed by each student must be based on the student's unique needs, not the student's category of disability.
2. ~~Age-Appropriate~~ Age-Appropriate Peers: Students with disabilities ~~ages three (3) through the day before the student's twenty-second (22nd) birthday from the age of three (3) through the semester in which the student attains the age of twenty-one (21) years~~ shall be educated with age-appropriate peers to the maximum extent appropriate. A student with a disability ~~is not~~ shall not be removed from age-appropriate general education environments solely because of needed accommodations and/or adaptations in the general education environment or curriculum based on the Idaho Content Standards.
3. School of Attendance: A student with a disability shall be educated in the school ~~the student he or she should~~ would attend if not disabled, unless the severity and extent of the student's disability is such that the student cannot be satisfactorily educated in that school. ~~IEP requires some other arrangement.~~ In such case, the ~~child's~~ student's placement shall be based on the ~~child's~~ student's individual needs and unique circumstances ~~IEP~~ and as close ~~to as~~ possible to the ~~child's~~ student's home.
4. Harmful Effects: Consideration shall be given to any potential harmful effect on the student or on the quality of services the student needs. Teams shall consider the potential benefits and harmful effects of the student not participating in the general education environment and accessing grade-level Idaho Content standards when instruction in a separate environment or with an adapted curriculum is being considered.
5. Accommodations and/or Adaptations: A student with a disability ~~is~~ shall not be removed from age-appropriate general education settings solely because of needed accommodations and/or adaptations in the general education environment or curriculum.
6. Participation in Nonacademic and Extracurricular Services and Activities:
 - a. A student may not be denied the opportunity to participate in nonacademic and extracurricular services and activities based solely on the fact that a student has a disability or due to the student's current educational placement.
 - b. A student with a disability shall be allowed an equal opportunity to participate with students without disabilities in nonacademic and extracurricular services and activities to the maximum extent appropriate. These services and activities may include but are not limited to meals, ~~recess~~ recesses, field trips, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the LEA ~~district~~, referrals to community

agencies that provide assistance to individuals with disabilities, career development, and employment of students, including both employment by the LEA and assistance in making outside employment available.

- c. The IEP team shall consider and determine what determines the supplementary aids and services that are appropriate and necessary for the student to participate in nonacademic and extracurricular settings and extracurricular services and activities to afford students with disabilities an equal opportunity for participation in those services and activities.

C. Documentation of Placement Decisions

If the student will not participate *entirely* in the general education classroom, curriculum, and/or nonacademic and extracurricular activities, the IEP shall include a written explanation justifying the IEP team's decisions ~~including the consideration of supplementary aids and services~~. This justification shall include the consideration of potential benefits or harmful effects of removing the student from the general education setting, curriculum, and/or nonacademic and extracurricular activities, with or without the provision of supplementary aids and services beyond the need for specially designed instruction. The ~~district~~ LEA shall provide written notice to the parent/adult student ~~with prior written notice~~ whenever the IEP team proposes to change or refuses to change the educational placement of the student.

The IEP includes a section for reporting the educational environment required for Child Count. This section is for reporting the amount of time the student spends in the general education environment, with or without special education and related services.

Section 2. ~~District~~ LEA Responsibility for Continuum of Settings and Services

The continuum of settings includes instruction in general ~~education~~ ~~classes~~, special education ~~classes~~, special schools, ~~home instruction in homebound settings~~, residential programs, ~~and instruction in hospitals~~, and ~~correctional facilities~~ ~~institutions~~. In addition, the continuum ~~includes~~ ~~makes~~ provision for supplemental services, such as resource services or itinerant instruction, to be provided in conjunction with ~~the~~ general ~~education~~ ~~classroom~~.

In determining appropriate settings and services for a student with a disability, the IEP team shall consider the student's needs and the continuum of ~~alternate~~ placements and related services ~~available~~ ~~required~~ to meet those needs. Regardless of placement, the student shall be given appropriate access to the ~~age-appropriate, grade-level~~ general education curriculum and the Idaho Content Standards that apply to all students, as determined by the IEP team. The ~~district~~ LEA shall be able to justify the available continuum of services and placement decisions for individual students, which shall not be limited by LEA structure, LEA charter or mission statements, LEA policy, instructional philosophy, staffing, funding, or any other factors not based on the individual student's unique needs.

All LRE considerations also apply to preschool students ages three (3) ~~until eligible to enroll in kindergarten to five (5) years~~ with disabilities who are eligible for special education and, therefore, entitled to receive a free appropriate public education (FAPE).

1. Educational ~~Settings~~ ~~settings~~ for implementing IEPs for students of legal ~~kindergarten-~~

~~age~~ kindergarten age are the same as for all other school-age students.

2. Settings for implementing IEPs for preschool-age students may include public or private early childhood programs.

Public schools that do not operate early childhood programs for preschool students without disabilities are not required to initiate such programs solely to satisfy LRE requirements. IEP teams in public schools that do not have an inclusive public preschool that can provide all the appropriate services and supports to meet the individual needs of preschool students with disabilities; shall explore alternative methods to ensure LRE requirements are met for preschool students ages three (3) ~~until eligible to enroll in kindergarten to five (5) years~~, which may include:

1. providing opportunities for ~~full-time or part-time~~ participation ~~(even part-time)~~ of preschool students with disabilities in public or private regular early childhood programs operated for preschool students without disabilities by other agencies, such as Head Start;
2. placing preschool students with disabilities in the following:
 - a. private early childhood programs for preschool students *without* disabilities; or;
 - b. private early childhood programs or other community-based early childhood settings that integrate students *with and without* disabilities; and/or;
3. ~~locating~~ providing classes for preschool students with disabilities in elementary schools, which may include participation in non-academic and/or non-curricular activities as appropriate to meet the individual needs of the students.

See Chapter ~~11~~ 12 for information regarding ~~prior~~ written notice requirements that apply to proposed or refused changes in educational placement.

~~Section 3. Federal Reporting of LRE~~

~~The IEP includes a section for reporting the educational environments required for the Federal Child Count (annual report of children served, collected on any date between October 1 and December 1 of each year). This section is for reporting the amount of time the student spends in the general education environment, with or without special education and related services. After determining the LRE and the educational environments in which the student will receive their general education instruction and special education services, the IEP team will document the educational environment for federal reporting.~~

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CHAPTER 7: DISCONTINUATION OF SERVICES, GRADUATION, AND GRADING

Section 1. Discontinuation of Services

A. Students Who Are No Longer Entitled to Services

~~The district will follow appropriate procedures to discontinue special education services to students who are no longer entitled to those services.~~ There are several circumstances which may lead to an LEA no longer providing special education and/or related services to a student. An LEA discontinues services when the student is no longer entitled to services, when the LEA's obligation to provide services changes, or when consent for services is revoked by the parent/adult student.

1. Student No Longer Meets Eligibility Criteria

If it is suspected that a student no longer meets the eligibility criteria for special education ~~the IDEA~~, the evaluation team ~~will~~ shall conduct a comprehensive evaluation. ~~reevaluation and arrange to have additional assessments conducted, if necessary.~~ The evaluation team shall use the reevaluation consideration process and associated form to determine whether new assessments are necessary to complete a comprehensive evaluation and make an eligibility decision. The team will obtain consent for new assessments to be conducted, if necessary. The evaluation team will document the eligibility decision within an eligibility report. If the student is no longer eligible under the Idaho eligibility ~~standards-criteria~~, the ~~district~~ LEA will provide the parent/adult student with written notice of this decision, including the date that services will cease, prior to discontinuing special education services.

2. Student Completes Requirements for ~~a~~ High School ~~Diploma~~ Graduation

A student is no longer eligible for special education services and the LEA's ~~The district's~~ obligation to provide special education services ends when the student meets the ~~district~~ LEA and State graduation requirements that apply to all students ~~for receipt of a high school diploma~~ without adaptations to those requirements. Although this is considered a change of placement, ~~a reevaluation~~ an evaluation is not required. Prior to graduation and the discontinuation of special education services, the ~~district~~ LEA shall:

- a. provide the parent/adult student with written notice ~~of that the student is no longer eligible for special education services and that the LEA's district's~~ obligation to provide special education services has ended because ~~ends when the student has met the Idaho High School Graduation and such applicable district requirements~~ LEA and State graduation requirements that apply to all students; and
- b. provide the parent/adult student with a written summary of academic achievement and functional performance which shall include recommendations to assist the student in meeting ~~his or her~~ postsecondary goals. This summary is known as the *Summary of Performance (SOP)*.

3. Student Reaches Maximum Age

For students who have not yet met LEA and State graduation requirements ~~the Idaho High School graduation and such district's graduation requirements~~, the student is no longer eligible for special education and the LEA's ~~district's~~ obligation to provide special education services ends at the completion of the semester in which the student ~~turns~~ attains the age of twenty-one (21) years ~~of age. the day before the student's 22nd birthday~~. This is considered a change of placement that does not require an evaluation ~~a reevaluation~~. ~~If a~~ At the completion of the semester in which the student attains the age of twenty-one (21) years ~~When the student turns is turning twenty one (21) twenty two (22)~~, the ~~district~~ LEA shall:

- a. provide the parent/adult student with written notice that the student is no longer eligible for special education and the LEA's ~~district's~~ obligation to provide special education services ends ~~the day before the student's 22nd birthday~~ at the completion of the semester in which the student attains the age of ~~turns~~ twenty-one (21) years ~~of age~~; and,
- b. provide the parent/adult student with a written summary of academic achievement and functional performance which shall include recommendations to assist the student in meeting ~~his or her~~ postsecondary goals. This summary is known as the *Summary of Performance (SOP)*.

B. Change in ~~District~~ LEA Obligation to Provide Services

Under certain circumstances, a student may continue to be eligible for special education services, but the ~~district's~~ LEA's obligation to provide services to the student changes.

1. Transfer to Another LEA ~~District~~

When a student enrolls in another LEA, the receiving LEA becomes responsible for FAPE.

See Chapter 5 for more information about the transfer review process. ~~is no longer a legal resident of the district, the district will forward the student's special education records electronically or by mail within five (5) calendar days of the request from the new district. The records must include, at least, the student's most recent individualized education program (IEP) and eligibility documentation. The sending district will retain copies or originals of the most recent five (5) years of programmatic and fiscal records, including IEPs and eligibility documentation. During an audit or monitoring, this documentation may be needed to demonstrate that the student was eligible for special education and received special education services from the district. Note: Districts are required to maintain Medicaid-related records for six (6) years. See Chapter 11 for more information.~~

2. Enrollment in Private School or ~~Receives Homeschooling~~ Homeschool

When a parent/adult student withdraws a student from public school and enrolls the student ~~him or her~~ in a private school or provides homeschooling, the ~~district's~~ LEA's responsibilities vary depending on the circumstances.

See Chapter 3 for more information about Child Find. See Chapter 9 for more information about Private Schools. See Chapter 10 for more information on Homeschooling.

3. Students Who Drop Out of School ~~Dropouts~~

When a student drops out of school, written notice shall ~~will~~ be sent to the parent/adult student and a copy of the ~~written~~ notice shall ~~will~~ be ~~included~~ ~~placed~~ in the student's special education record ~~confidential file~~. If the student reenrolls in the LEA, the LEA shall complete the Transfer Process to determine whether an evaluation is needed and whether the student's most recent IEP can be implemented as written or implemented with an amendment, or whether an interim IEP is appropriate while an evaluation is completed. ~~and is still eligible for special education, the previous IEP can be implemented if it is current and appropriate. A new IEP shall be developed if needed.~~

Note: A student completing a ~~General Education Development (GED)~~ high school equivalency diploma is considered to have dropped out because high school equivalency diplomas do ~~certificate does~~ not meet the ~~Idaho Content Standards and district~~ LEA and State requirements for graduation ~~that are comparable to a high school diploma. The IEP team considering a student with a disability's graduation from high school shall include a district representative knowledgeable about Idaho Content Standards and such applicable district graduation requirements.~~

4. Students Who Complete Graduation Requirements with Adaptations

When a student meets the graduation requirements outlined in the IEP but does not meet LEA and State requirements for graduation, the student is considered to have graduated by meeting adapted requirements. Because the student has not met LEA and State graduation requirements, the student may remain eligible for FAPE ~~until the day before the student's twenty-second (22nd) birthday~~ through the semester in which the student attains the age of twenty-one (21) years. In many cases, students who graduate by meeting adapted requirements leave high school and pursue postsecondary options. In this event, written notice shall be sent to the parent/adult student and a copy of the written notice shall be included in the student's special education record.

If the student returns to pursue graduation by meeting LEA and State requirements or to participate in a transition program, the LEA shall complete the transfer process to determine whether an evaluation is needed and whether the student's most recent IEP can be implemented as written or implemented with an amendment, or whether an interim IEP is appropriate while an evaluation is completed.

See Chapter 5 for more information about the Transfer Process and Timelines.

C. Parent/Adult Student Revokes Consent for Special Education Services

When a parent/adult student revokes consent for special education services in writing, ~~prior~~ written notice shall be provided specifying when the special education and related services will

cease. ~~Note: A parent/adult student has the right to revoke consent for IEP services in their entirety, not service by service.~~ The written notice shall include a statement indicating the ~~district~~ LEA stands ready, willing, and able to provide FAPE should the student remain eligible for special education services. If a parent revokes consent for special education and related services and later requests that special education services be reinstated, the LEA shall treat this request as a request for an initial evaluation. This includes completing the referral process to determine whether new assessments are required to determine eligibility and obtaining written consent from the parent/adult student to initiate the evaluation process. The team shall complete an eligibility report to identify whether the student is eligible for special education services.

A parent/adult student has the right to revoke consent for special education services in their entirety, not service by service. However, the LEA cannot use the parent/adult student's refusal of consent to a particular service as the basis for refusing to provide any special education or related services. The IEP team should work to reach consensus on an appropriate offer of FAPE.

See Chapter 3 for more information about the Referral to Consider a Special Education Evaluation. See Chapter 4 for more information about conducting an Initial Evaluation.

Section 2. Graduation

~~Graduation means meeting district and State requirements receipt of a high school diploma.~~ A student is eligible for FAPE until they meet LEA and State standards for graduation or until the day before their twenty-second (22nd) birthday through the semester during which the student attains the age of twenty-one (21) years. A student may graduate in one of the following ways:

1. Graduation Meeting LEA and State Requirements

The student has met LEA and State requirements that apply to all students with or without accommodations in the classroom. Accommodations are determined by the IEP team if deemed necessary for the student to complete coursework required for graduation. Accommodations maintain the same level of rigor of the LEA and State graduation requirements. For example, a teacher may use different instructional strategies or alternate methods for assessing the student's mastery of Idaho Content Standards that are equally rigorous. Accommodations shall be stated in the student's IEP.

2. Graduation Meeting Adapted Requirements

When a student meets the graduation requirements outlined in the IEP but does not meet LEA and State requirements for graduation, the student is considered to have graduated by meeting adapted requirements. Long-term consequences for the student shall be considered when adaptations are made to LEA and State graduation requirements. Adaptations alter the level of rigor required in the LEA or State graduation requirements.

Examples of adaptations include, but are not limited to, changes made to course content, course credit requirements, learning objectives, or grading standards that alter the level of rigor or the grade-level standard but shall not include exempting or excluding the student from an opportunity to pursue or meet the Idaho Content Standards.

A. Individualized Education Program (IEP) Team Requirements Regarding Graduation

A student's IEP team shall review graduation requirements, including the student's progress towards meeting LEA and State requirements and/or adapted graduation requirements as determined by the IEP team, at least annually, beginning with the IEP in effect when the student turns sixteen (16).

When reviewing graduation requirements for a student receiving special education, the IEP team shall include an LEA representative knowledgeable about the Idaho Content Standards and the LEA and State graduation requirements. The IEP team shall:

1. Determine whether the student will meet LEA and State ~~all state and local~~ graduation requirements, ~~to be eligible to graduate from high school~~ and the anticipated graduation date.
2. Develop the student's secondary transition plan, including the student's course of study and a record of the number of credits earned and anticipated to be earned in each high school grade, including any transition program the student is anticipated to participate in beyond their twelfth (12th) grade year. ~~in collaboration with the Parent Approved Student Learning Plan required for every student prior to the end of eighth (8th) grade. The Student Learning Plan will be reviewed annually and may be revised at any time.~~ The IEP team shall review the student's course of study annually ~~and identify and make any changes to the course of study~~ needed for the student to meet graduation requirements.
- ~~3. Beginning no later than the end of the student's ninth (9th) grade year, annually review annually the student's course of study, and identify and make changes to the course of study needed for the student to meet graduation requirements.~~
4. Document any ~~accommodations and~~ adaptations made to the ~~district's~~ LEA's and State's regular graduation requirements ~~on the student's behalf~~ based on the student's individual needs.

~~a. Graduation Requirements with Accommodations~~

~~Accommodations to graduation requirements are determined by the IEP team and are deemed necessary for the student to complete graduation requirements. Further:~~

- ~~1) Accommodations to graduation requirements must specifically address completion of the student's secondary program.~~
- ~~2) Accommodations will maintain the same level of rigor to the district and State graduation requirements. For example, a teacher may use different instructional strategies or alternate methods for assessing the student's mastery acquisition of skills standards that are equally rigorous.~~

- 3) ~~Accommodations made to any district or State graduation requirement shall be stated in the student's IEP.~~

~~b. Graduation Requirements with Adaptations~~

~~Long-term consequences for the student shall be considered when adaptations are made to graduation requirements. Further:~~

- 1) ~~Adaptations to graduation requirements shall specifically address completion of the student's secondary program.~~
- 2) ~~Adaptations may alter the level of rigor required in the district or State graduation requirements. Examples of adaptations include changes made to course content, objectives, or grading standard standards that alter the level of rigor or grade-level standard but will not include exempting or excluding the student from an opportunity to pursue or meet the Idaho Content Standards.~~

B. Graduation Ceremonies

A special education student who completes a ~~his or her~~ secondary program through meeting graduation requirements or criteria established on the ~~student's his or her~~ IEP will be afforded the same opportunity to participate in graduation ceremonies, senior class trips, ~~etc.~~, or any other graduation activities, as students without disabilities. Participation in a graduation ceremony does not mean that the student ~~will receive a high school diploma~~ has met LEA or State requirements for graduation or indicate the completion of a secondary program. Students who have not yet completed their secondary program using criteria established on their IEP will be afforded the opportunity to participate in the graduation ceremony with their grade-level peers, even if they are continuing through the ~~day before their twenty-second (22nd) birthday~~ semester in which the student attains the age of twenty-one (21) years.

Section 3. Transcripts and Diplomas

A. Transcripts

The transcript serves as a record of individual accomplishments, achievements, and courses completed. Transcripts shall adhere to the following conditions:

1. Accommodations that allow the student to complete and demonstrate that ~~he or she has~~ the student has met graduation requirements ~~will~~ shall not be noted on the transcript.
2. Adapted course work may be noted on the transcript if the parent/adult student is informed in advance and the designation is not discriminatory ~~or~~ and does not identify the student as having a disability or receiving special education.
3. Course designations, titles, or symbols that are used solely to identify adapted course work that is taken by students with disabilities ~~will~~ shall not be used.

B. Diploma

The ~~district~~ LEA will use the same high school diploma for all students at the completion of the secondary program. This includes students who meet the graduation requirements with ~~accommodations and/or~~ adaptations.

- ~~1. For students who are eligible for special education services, t The district will use the high school diploma for students who are eligible for special education services at the completion of their secondary program through meeting graduation requirements or based on criteria established on his or her IEP.; tThis includes students who meet the graduation requirements with accommodations and/or adaptations.~~

A modified or differentiated diploma or certificate may not be used for students who are eligible for special education unless the same diploma or certificate is granted to students without disabilities in the same graduating class.

Section 4. Grades, Class Ranking, and Honor Roll

Grades earned by students with disabilities will not be categorically disregarded or excluded from ~~district-wide~~ the LEA's grade point average (GPA) standing. The ~~district-LEA~~ may establish objective criteria for class rankings, honors, etc., that weight courses according to degree of difficulty or exclude non-core courses so long as such practices are nondiscriminatory.

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CHAPTER 8: CHARTER SCHOOLS

Federal law requires that students with disabilities be offered educational choices comparable to those offered to students without disabilities. One of these choices is the opportunity to attend a public charter school. Each public charter school, whether a charter school within a district or a charter school LEA (~~Local Education Agency~~), ~~shares in the obligation to~~ **shall** accept and appropriately serve students with disabilities under the IDEA in the same manner as any other public school.

The LEA charter school board of directors/trustees ~~is required to~~ **shall** adopt **the most current Idaho Special Education Manual and all subsequent revisions** and ensure **the appropriate implementation of the IDEA within** ~~that the LEA implements this Manual.~~

Section 1. Definition and Parent/Student Rights

A. Definition of Charter Schools

In Idaho, a charter school is a public school authorized **pursuant to Title 33 Chapter 52**, Idaho Code. A charter school operates as a nonprofit, publicly funded, nonsectarian school in one of three ways:

1. as a school within a district, if authorized by the local board of trustees of a school district ~~(LEA)~~;
2. as a school authorized by ~~the~~ **a** district, but operating as a separate LEA; or
3. as its own LEA, if authorized by the Idaho Public Charter School Commission or ~~a~~ **an** **Idaho** college or university.

A charter school is bound by the conditions of its charter; **and** all applicable state and federal ~~laws~~ **law**.

B. The Rights of Charter School Students and Their Parents

A charter school student is a public school student. Students with disabilities who attend charter schools, and their parents, have all ~~of~~ the same rights granted to students who attend other public schools. These rights are provided under the IDEA; the Elementary and Secondary Education Act (ESEA); the Every Student Succeeds Act (ESSA); Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act (ADA); and the Family Education Rights and Privacy Act (FERPA). Idaho law specifically states that charter schools cannot discriminate against any student on any basis prohibited by federal or state constitutions or any federal, state, or local law.

1. Charter schools must have open enrollment **policies** that ~~includes~~ **include**:
 - a. giving all students an equal opportunity to attend;
 - b. being open and accessible to all students, including students with disabilities; and

- c. admitting students on the basis of a lottery if more students apply for admission than can be accommodated.
2. A charter school shall not adopt an admission standard, policy or procedure ~~or any other criteria for continued enrollment, attendance, or participation~~ that would have the effect of prohibiting or discouraging a student with a disability from enrolling, ~~or attending, or continuing to attend;~~ or have the effect of prohibiting or discouraging a parent of a student with a disability from enrolling ~~his or her child~~ a student in the charter school by:
 - a. establishing an examination or other academic criteria for admission;
 - b. requiring any activity in which the school is unwilling to accommodate or adapt its curriculum or academic standards to meet the needs of the student with a disability; and/or
 - c. ~~requiring any activity in which the school suggests~~ implicitly or explicitly ~~suggesting~~ that another ~~school district~~ LEA would be a better placement or more capable of providing special education services or delivering ~~education~~ instruction (commonly referred to as “counseling out”).
 - d. ~~suggesting that the behavioral or instructional philosophy or approach, curriculum, or instructional design of the charter may not meet the needs of a student with a disability. This includes but is not limited to suggestions that the academic rigor of the curriculum is not appropriate for students with disabilities or for a particular student with a disability.~~
3. Every LEA is required to provide a continuum of educational services and supports sufficient to meet the needs of students with disabilities. LEAs shall not indicate to parents that certain services are not available or are substandard when compared to offerings of other LEAs.
4. A charter school must provide every student with a disability a Free and Appropriate Public Education (FAPE), which shall include appropriate special education services starting the first day of school or upon the first day the student enrolls and begins attending school.

Under Idaho state law, the charter of an authorized charter school ~~shall outline~~ ~~outlines~~ specific mission statements, policies, and procedures, and the manner by which special education services will be provided.

Section 2. Responsibility for Services

A. Charter School Authorized by the District and Not Operating as a Separate ~~an~~ LEA ~~(See definition in Section 1.A.1)~~

The district is ultimately responsible to ensure that the requirements of the IDEA are met with respect to students attending charter schools authorized by the district. A charter school’s

compliance with the IDEA, Part B, is required regardless of whether the charter school receives any Part B funds.

1. To ensure that a charter school authorized by the district meets the IDEA requirements, the district shall ensure services to students with disabilities attending the charter schools are provided in the same manner as the district serves students with disabilities in ~~its~~^{its} other schools, including providing supplementary and related services ~~onsite~~^{on site} at the charter school to the same extent to which the district has a policy or practice of providing such services ~~on the site~~^{on site} to ~~its~~^{its} other public schools.
2. The district shall have information on file with the ~~State Department of Education (SDE)~~^{Idaho Department of Education} that demonstrates ~~that~~ students with disabilities who attend charter schools authorized by the district will receive special education and related services from either the district or the charter school (or a combination of both).
3. The district will ensure that its charter schools participate in all monitoring activities conducted by the ~~Idaho Department of Education SDE~~^{Idaho Department of Education}.
4. The district shall provide Part B funds and comparable services to the charter school ~~authorized by~~^{within} the district on the same basis as it provides such funds to other public schools within the district.

B. Charter School Operating as ~~an~~ its Own LEA (~~See definition in Section 1.A.2)~~

Charter schools authorized by the Idaho Public Charter School Commission, ~~or an Idaho college or university~~, are automatically LEAs. ~~Some charters are authorized by school districts but operate as a separate LEA.~~ A charter school LEA, whether virtual, ~~or~~ brick-and-mortar, or a combination thereof, ~~has an obligation to~~ ^{shall} accept, enroll, and appropriately serve students with disabilities and is solely responsible to ensure that the requirements of the IDEA are met with respect to students enrolled. Compliance with the IDEA, Part B, is required regardless of whether the public charter school receives any Part B funds. A charter school LEA shall: ~~participate fully in all monitoring activities conducted by the SDE~~^{Idaho Department of Education}.

- ~~1. participate in all monitoring activities conducted by the SDE and,~~
- ~~2. in its first year of operation, participate in an onsite technical assistance visit by an SDE special education team to ensure that the essential components of special education program are in place.~~

Section 3. Charter Schools and Dual Enrollment

Under Section 33-204, Idaho Code, parents of public charter school students “shall be allowed to enroll the student in a public school for dual enrollment purposes.” Special education services (specially designed instruction and ~~related~~ services calculated to meet the unique needs of a student with a disability) shall be the obligation of the public charter school. The ~~LEA~~^{district} shall allow public charter school students who are eligible for special education and who are

otherwise qualified to participate in school programs under the dual enrollment law to:

1. enroll in general education courses under the same criteria and conditions as students without disabilities; and
2. continue to access FAPE as outlined in the IEP developed by the public charter school, including receiving accommodations in the general education courses in which they are enrolled. ~~receive accommodations in the general education courses for which they are enrolled on a 504 plan, if needed.~~

Public charter school students may not dually enroll solely for special education services. When appropriate, the ~~The~~ Board of Directors/Trustees of the public charter school and the traditional school district in which the student is dually enrolled should enter into an agreement such as a Memorandum of Understanding (MOU) outlining the responsibilities of each school in implementing the student's IEP.

~~For detailed requirements and responsibilities governing dual enrollment of charter school students, see Section 33-203, Idaho Code.~~

Section 4. ~~Funding~~ New Charter Verification

In the first year of operation, all newly established charter schools shall undergo a special education verification process, which may include one or more onsite visits, to ensure the establishment of essential components of a compliant special education program. Designated personnel from the Idaho Department of Education will extend support to the charter school in fulfilling the requirements of the new charter verification process which shall encompass the following:

1. timely completion of the new charter verification form;
2. evidence to support the substantive components of the new charter verification form including such items as facilities, personnel, curriculum, student discipline, and relevant IDEA and Section 504 policies, practices, and procedures;
3. an in-person or virtual site visit from the Idaho Department of Education; and
4. ongoing technical assistance and continued oversight if the essential components of a compliant special education program are not implemented.

It is important to note that the allocation of the charter school's IDEA grant funds is contingent upon the successful completion and verification of all components of the new charter verification form and the associated site visit.

Upon successful verification, the Idaho Department of Education will issue written confirmation to the newly established charter school regarding the successful completion of the new charter verification form. Based on the outcome of the verification process, the Department reserves the right to mandate further reviews in subsequent years of the charter school's operation.

Section 5. Funding

A. State Funds

The ~~SDE~~ Idaho Department of Education will make apportionment payments (from state general funds) to each charter school based on attendance ~~figures~~. The ~~SDE~~ Idaho Department of Education will pay state funds directly to charter schools ~~operating as their own LEA~~ using the funding formula described in state law. ~~A charter school authorized by a district but not operating as its own LEA will receive state funds through their authorizing district.~~ A charter school may also be eligible for the following funds:

1. state funds for special education students who live in licensed group, foster, or personal care services homes under the provision of Section 33-1002B, Idaho Code;
2. district-to-agency contract funds under a provision of Section 33-2004, Idaho Code;
3. funds to serve high numbers of students with ~~emotional behavioral disorder~~ ~~serious~~ ~~emotional disturbance~~ under Section 33-2005, Idaho Code; and
4. state enhancement funding sources.

B. Federal Funds

The ~~SDE~~ Idaho Department of Education disburses federal flow-through funds to all authorized ~~local education agencies (LEAs)~~.

1. ~~Charter School Authorized by the District and Not Operating as a Separate LEA (See definition in Section 1.A.1) Charter School as Part of a District (not an independent LEA)~~

The district provides funds under Part B to those charter schools that are part of the district on the same basis as the district provides funds and comparable services to the other public schools. This includes proportional distribution based on relative enrollment of students with disabilities. This distribution is made at the same time as the district distributes funds to their other public schools and must be consistent with Idaho's charter school law. The individual school's approved charter will identify whether the district will provide funding or services of comparable value.

- a. The amount of funds or comparable services will generally be equal to the per student amount the district is allocated from the ~~SDE~~ Idaho Department of Education in the current year multiplied by the charter school's Child Count from the previous school year.
- b. Under certain circumstances the district shall allocate Part B funds to an eligible charter school based on the number of special ~~education~~ students enrolled and served in the current school year.
 - 1) The district will allocate funds to a charter school within five (5) months of opening or significantly expanding its enrollment if the charter school notifies the district at least 120 calendar days before it

opens or significantly expands its enrollment due to a significant event that is unlikely to occur on a regular basis (such as the addition of one or more grades or educational programs in major curriculum areas), and it takes place before ~~the first Friday in February~~ February 1 of an academic year.

- 2) When these conditions are met, the district will allocate funds to the charter school as follows:
 - i. If the opening or expansion occurs prior to ~~the first Friday in November 1~~, the charter school will be allocated funds in the current school year based on the current school year's Child Count.
 - ii. If the opening or expansion occurs after ~~the first Friday in November 1~~ but before ~~the first Friday in February 1~~, the charter school will be allocated a pro-rata share of funds in the current school year based on the number of enrolled special education students with active IEPs 30 days after the opening or expansion. The pro-rata share will be the number of days the charter school will be open or expanded, divided by the number of days in the school year, multiplied by the number of special education students.
 - 3) If the opening or expansion occurs on or after ~~the first Friday in February 1~~, the charter school will be allocated funds in the following school year based on the following school year's Child Count.
- c. For school districts that have authorized a virtual charter school and the charter school's students are enrolled in the district but live outside ~~the district's geographical district~~ boundaries and receive education outside the district, the ~~SDE~~ Idaho Department of Education will determine the district's Part B funding in the following way:
- 1) The calculation of the district's allocation will be made exclusive of the charter school's enrollment and special education enrollment (student count).
 - 2) After calculating the allocations for all districts using the federal funding formula and the distribution formula for any supplemental award, the ~~SDE~~ Idaho Department of Education will determine any base allocation adjustments. ~~the statewide average per student allocation.~~
 - 3) When a base payment adjustment is required as described by 34 CFR §§300.705(b)(2) and 300.816(b), an SEA must redistribute the base payments among the affected LEAs. The Idaho Department of Education calculates each affected LEA's base payment adjustment separately. For each Transferring LEA, the method calculates the amount of the base payment that must be redistributed to the Assuming LEA. The amount of

the adjustment is based on the number of students with disabilities for whom responsibility changes due to the circumstance. ~~The SDE will add to the district's base allocation an amount equal to the statewide average per student allocation times the number of students with disabilities enrolled in and determined to be eligible for and receiving special education services.~~

2. Charter School Operating as ~~its Own~~ LEA

Public charter schools that are LEAs are responsible for adopting and implementing approved policies and procedures for special education and providing an assurance that funds will be used in accordance with Part B allowable uses.

- a. Under 34 CFR § 76.792, the Idaho Department of Education must allocate funds to eligible charter school LEAs. In order to obtain funding for the first year of operations, the LEA must submit an estimate of opening enrollment and low-income population to the Idaho Department of Education to be used towards an initial allocation. To qualify under I.C. 33-5207(7) and 34 CFR § 76.788, the LEA must provide the Idaho Department of Education with written notification at least 120 days before the date a charter school LEA is scheduled to open or significantly expand its enrollment. The Idaho Department of Education will allocate funds to a charter school within five (5) months of opening or significantly expanding its enrollment if the charter school notifies the SEA at least 120 calendar days before it opens as required under 34 CFR §76.793.
- b. In the second and subsequent years of operation, ~~Charter School~~ charter school LEAs will be allocated Part B funds in the same manner as all ~~school districts~~ LEAs, in accordance with the federally prescribed funding formula for the distribution of flow through funds. The funding formula that the SEA is required to use in calculating these subawards is outlined in 34 CFR §300.705.
- c. Once all site verification requirements have been met as outlined in section 4, the LEA will receive a site verification approval notification. The IDEA Part B application shall then be reviewed for approval, at which time the charter LEA may access the IDEA Part B funds for the reimbursement of special education activities.
- d. ~~The policy for providing federal special education funds to new charter LEAs in the first year of operation, as required by federal regulation, includes the following steps:~~
 - 1) ~~———— The LEA submits its Child Count as required by IDEA.~~
 - 2) ~~———— An SDE Special Education Monitoring Team visits the new LEA to review the files of the students reported on the Child Count.~~
 - 3) ~~———— The monitoring team determines the number of students meeting all eligibility requirements and receiving appropriate special education and~~

~~related services.~~

- ~~4) Based upon the number of students determined to be eligible, amounts of Part B funds for allocated to the charter LEA are calculated as follows:~~
 - ~~i. The statewide average per student amount of Part B funding in the current year is determined.~~
 - ~~ii. That amount is multiplied by the number of students who meet all eligibility requirements and are receiving appropriate special education services to determine the total allocation.~~
- ~~5) The charter LEA then shall complete the Part B application documents. These include:~~
 - ~~i. Assurances, Checklists, and Policies and Procedures Adoption~~
 - ~~ii. Maintenance of Effort Assurance~~
 - ~~iii. IDEA Part B Budget Form~~
- ~~6) Once the application is submitted and approved, the charter LEA may begin drawing down these funds for the approved special education purposes.~~

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CHAPTER 9: PRIVATE SCHOOL STUDENTS

~~Note: For the purposes of this Manual, the term “private school student” is the same as a “nonpublic school student.” A homeschool student is not considered a private school student. A student who is enrolled in a virtual public school is not considered a homeschooled student for the duration that they attend that virtual public school.~~ In Idaho, private school students and homeschool students are both types of “nonpublic school students.” For the purpose of this chapter, “nonpublic school student” refers to private school students.

The IDEA and state law ~~IDAPA~~ include the following:

1. statutory and regulatory language, which states that students who are voluntarily enrolled in private schools are not entitled to all of the same services, including the right to a free appropriate public education (FAPE), as public school students;
2. ~~district~~ LEA responsibilities for special education students under Idaho’s dual enrollment law; and
3. the ~~legal-procedural~~ requirements that ~~come into play~~ apply when a parent unilaterally enrolls his or her child in a private school and asks the ~~district~~ LEA for reimbursement of these costs.

Section 1. Definitions of Private School Placements

In order to describe the ~~district’s~~ LEA’s responsibilities for serving private school students, it is helpful to distinguish three separate ways that students are placed in private schools. These are defined by who enrolls or places the student in a private school and why.

A. Definition of Voluntary Enrollment by a Parent

A parent may choose to enroll his or her child in a private school for a variety of personal reasons, such as to obtain a religious education; ~~or~~ to attend a school with a particular philosophy or curriculum; ~~or because the parent is dissatisfied with the services offered or provided by the district.~~ This is considered a voluntary enrollment.

See Section 2 and Section 4 of this chapter for ~~district~~ LEA responsibilities.

Note: The IDEA distinguishes between for-profit and nonprofit private schools. If a student is placed in a for-profit private school by their parents, the service plan provisions do not apply.

B. Definition of ~~District~~ LEA Placement

At times, the ~~district~~ LEA may place a student in a private school or facility to fulfill its obligation to provide FAPE. These placements are always made by an individualized education program (IEP) team in accordance with the requirements of Section 3 of this chapter.

C. Definition of Unilateral Placement by Parents when FAPE is an Issue

A parent may enroll a student in a private school or ~~provide seek~~ services from a private provider at parental expense. The parent may initiate a due process hearing to seek reimbursement for the

costs associated with the placement from the ~~district~~ LEA. All students who are placed by a parent when FAPE is an issue are also voluntarily enrolled in a private school. Specific information regarding a parent's request for reimbursement of costs of student enrollment in a private school in this situation is included in Section 5 of this chapter.

Section 2. Students Voluntarily Enrolled by Parents

A. ~~District~~ LEA Consultation with Private School Representatives (may be done in coordination with Title 1 requirements for consultation)

To ensure timely and meaningful consultation ~~and prior to the final submission of the IDEA Part B application~~, an ~~district~~ LEA will consult with private nonprofit elementary and secondary school representatives and representatives of parents of parentally-placed private school students with disabilities during the design and development of special education and related services for the students. The consultation process shall include:

1. Child Find: The ~~Child Find~~ child find process and how parentally-placed private school ~~children~~ students suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process.
2. Proportionate Share of Funds: The determination of the proportionate amount of federal special education funds available to serve parentally-placed private school ~~children~~ students with disabilities ~~under this subparagraph~~, including the determination of how the amount was calculated. Refer to Section 2G of this chapter for information regarding the calculation of the proportionate share of funds.
3. Determination of Special Education and Related Services: Given the amount of funds to be dedicated by the ~~district~~ LEA, the discussion will include the consideration of how, where, and by whom special education and related services will be provided for parentally-placed private school students with disabilities, including a discussion of:
 - a. types of services, including direct services and alternate service delivery mechanisms;
 - b. how such services will be apportioned if funds are insufficient to serve all parentally-placed private school students; and
 - c. how and when these decisions will be made. ~~and~~
 - d. ~~how the provided services will be evaluated.~~
4. Ongoing Communication: Clarify how the private school and ~~district~~ LEA will operate throughout the school year to ensure that parentally placed private school students with disabilities identified through the ~~Child Find~~ child find process can meaningfully participate in special education and related services. Annual consultation is not required to make these decisions. The ~~district~~ LEA determines the period between consultations based on changing circumstances within the ~~district~~ LEA, such as significant changes in the total amount of funds to be expended and/or the number and location of private school students with disabilities.
5. Written Affirmation: When timely and meaningful consultation has occurred:
 - a. the ~~district~~ LEA will obtain a written affirmation signed by the representatives of participating private schools;

- b. if the representatives do not provide the affirmation within a reasonable period of time the ~~district~~ LEA will document ~~forward the documentation of~~ the consultation process and keep the documentation on file. ~~to the State Department of Education (SDE).~~
- 6. ~~District~~ LEA Decisions: Following consultation with the private school representatives, the ~~district~~ LEA will make final decisions concerning items a-dc addressed above in number 3.
- 7. Written Explanation by the ~~District~~ LEA Regarding Services: If the ~~district~~ LEA disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the ~~district~~ LEA will provide to the private school officials a written explanation of the reasons for the decision ~~why the district chose not to provide services directly or through a contract.~~

B. Compliance with Consultation Process

- 1. General Compliance: A private school official has the right to submit a complaint to the Idaho Department of Education SDE that the ~~district~~ LEA:
 - a. did not engage in consultation that was meaningful and timely; or
 - b. did not give due consideration to the views of the private school official.
- 2. Procedure for Complaint
 - a. If the private school official wishes to submit a complaint, the official will provide the basis of the noncompliance ~~complaint by the district~~ LEA with the applicable private school provisions to the Idaho Department of Education SDE consistent with the procedures provided in Chapter 13.
 - b. In response, the ~~district will~~ LEA must forward the appropriate documentation to the Idaho Department of Education SDE.
 - c. The Idaho Department of Education SDE will render a written decision determining whether the ~~district~~ LEA complied with the consultation process requirements and provide the decision to the ~~district~~ LEA and private school official.
 - d. If the private school official is dissatisfied with the decision of the Idaho Department of Education SDE, the official may submit a complaint to the Secretary of the US Department of Education by providing the information on noncompliance ~~basis of the complaint against~~ by the LEA to the Secretary, and the Idaho Department of Education SDE will forward the appropriate documentation to the Secretary.

C. Child Find Requirements

The ~~district~~ LEA shall have an ongoing ~~Child Find~~ child find system to locate, identify, and evaluate all students with disabilities ages three (3) ~~through the day before the student's twenty-second (22nd) birthday~~ semester in which the student attains the age of twenty-one (21) years who

are enrolled by their parents in private schools located within ~~are educated within~~ the ~~district's~~ LEA's geographical boundaries. This includes students who have been placed by a parent in a private nonprofit elementary or secondary school (including a religious school) located in the ~~district~~ LEA's geographical boundaries regardless of the student's ~~parents'~~ state or local residency. The LEA of residence would have child find responsibilities for students placed in for-profit schools and for children aged three (3) to five (5).

Note: Parents can also ask the ~~district~~ LEA of residence (assuming it is different than the ~~district~~ LEA where the private school is located) to evaluate their student. ~~Both districts would have Child Find child find responsibilities and cannot share information between the districts without written parental consent. The district of residence would have Child Find responsibilities for students placed in for-profit schools and for children aged three (3) to five (5).~~ Both LEAs are required to conduct an evaluation if requested to do so by the parent and if the LEA suspects the student has a disability under IDEA, because these evaluations are conducted for different purposes.

1. If the parent requests the LEA of the student's residence to conduct an evaluation for purposes of making FAPE available to the student, that LEA must conduct the evaluation.
2. If the parent requests the LEA where the private school is located to conduct an evaluation for purposes of determining whether the student may be eligible for equitable services through a Services Plan, that LEA must conduct the evaluation.

The ~~Child Find~~ child find process will be designed to encompass the following:

1. The ~~Child Find~~ child find process will ensure the equitable participation of parentally-placed private school ~~and homeschool~~ students with disabilities.
2. Child Find activities for private school students will be similar to ~~Child Find~~ child find activities for public school students, which include the evaluation process within the same ~~comparable~~ timelines.
3. The ~~district~~ LEA will consult with private school representatives and representatives of parents who place their children in private schools regarding the ~~Child Find~~ child find procedures.

Note: The cost of ~~Child Find~~ child find is not counted toward the pro-rated proportionate share that the ~~district~~ LEA must spend on services for parentally-placed private school students.

D. Annual Count of Parentally-Placed Private School ~~Eligible~~ Students

The ~~district~~ LEA shall conduct an annual count of eligible students and report to the Idaho State Department of Education the number of private school ~~children~~ students evaluated, the number found eligible and the number who are provided with special education services. Students aged three (3) to five (5) must have their special education services identified on an IEP or a ~~Service~~ Services Plan. This count will be used to determine the amount of funds the ~~district~~ LEA shall

expend providing special education and related services to private school students in the next school year (~~see Section 2E~~). The ~~district~~ LEA will consult with representatives of private school students to determine how to conduct the count.

See Section 2G of this chapter for information about the amount of funds to be expended based on the annual count.

E. Provision of Equitable Services

Provision of equitable services applies to all eligible students who are enrolled by their parents in ~~attend~~-non-profit private elementary and secondary schools within the ~~district's~~ LEA's geographical boundaries regardless of where they reside. Parentally placed private school students with disabilities do not have an individual right to receive some or all of the special education and related services that the student would receive if enrolled in a public school. Equitable services ~~Services~~ offered to parentally-placed private school students are determined through the ~~district~~ LEA and private school consultation process and are documented in a Services Plan.

1. ~~District Responsibilities~~ Equitable Services

- a. Private school students with disabilities may receive a different amount of services than public students with disabilities; they are not entitled to every service or the amount of service that they would receive if enrolled in public school. This means that it is possible for a private school student to receive only a related service or piece of equipment.
- b. Special education and related services provided to parentally-placed private school students with disabilities, including materials and equipment, will be secular, neutral, and non-ideological.
- ~~c. The district is required to offer FAPE to private school students who reside in their district, including when the student attends a private school outside of the district boundaries. Unless the parent makes clear their intention to keep their child in the private school, the district of residence must develop an IEP.~~
- c. Services may be provided at a public school building, in a virtual environment, or at another agreed-upon site (including parochial schools to the extent consistent with the law) determined by the ~~district~~ LEA in consultation with appropriate representatives of private school students.
- d. Services provided to private school students with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools.

2. Eligibility for Services

If an evaluation team determines that a student qualifies for ~~needs~~ special education and related services:

- a. When a student is determined to be eligible for special education and related services, the LEA in which the student resides must develop an IEP that outlines FAPE for the

student so that the parent can make an informed decision regarding enrollment in the public LEA or remaining enrolled in the private school. This LEA may not require that the student enroll in the public school before an offer of FAPE is made.

- 1) If a parent is unsure of their intention to accept an offer of FAPE and enroll the student in public school or remain enrolled in the private school, the LEA of residence is required to develop an IEP that offers the student FAPE, to be implemented upon the student's enrollment in the LEA. The ~~district~~ LEA has no obligation to implement the IEP unless the student enrolls in the public school.
 - 2) If a parent makes clear their intention to keep their child in the private school, the LEA of residence is not required to develop an IEP that offers the student FAPE.
 - a. ~~The district of residence shall offer to make FAPE available upon enrollment in a district public school. The district of residence must develop an IEP for the student who is parentally placed in private school unless the parent makes clear an intent not to consider public school enrollment. The district has no obligation to implement that IEP unless the student enrolls in the public school.~~
 - b. If the parent chooses not to enroll the student in the ~~district~~ LEA of residence and designated funds are available in the ~~district~~ LEA in which the private school is located, a meeting will be held to develop a Services Plan ~~(SP)~~. The meeting will include a representative of the private school to develop a **Services Plan SP**. The **Services Plan SP** is developed by the same members that would constitute ~~an~~ the IEP team.
 - c. Any services the ~~district~~ LEA provides to a private school student shall be in accordance with **the student's Services Plan** ~~an SP~~.
3. ~~Service~~ **Services Plan (SP)** Development
- The **Services Plan SP** shall describe the specific special education and related services that will be provided to the student in light of the determinations that have been made by the ~~district~~ LEA. **There is no individual right to special education and related services.** To the extent appropriate, the ~~district~~ LEA shall initiate and conduct meetings to develop, review, and revise **Services Plans SPs** in accordance with the following requirements:
- a. Given the services that the ~~district~~ LEA has elected to provide to private school students, the **Services Plan SP** must meet the requirements of the IEP to the extent appropriate ~~(see Chapter 5)~~. The **Services Plan SP** excludes sections pertaining to:
 - 1) early childhood outcomes;
 - 2) extended school year (ESY) services;
 - 3) participation in statewide and district-wide assessments;
 - 4) placement determination (least restrictive environment);
 - 5) Child Count federal report settings; and
 - 6) elements that, although typical for an IEP, would be inappropriate given the

services the ~~district~~ LEA has elected to provide.

- b. ~~An~~ A Services Plan SP shall be in effect at the beginning of each school year and accessible to each person responsible for its implementation.
- c. Meetings shall be held to review and revise Services Plans SPs at least annually to address any lack of student progress toward goals and in the general education curriculum.
- d. The Services Plan SP team members include the same members as an IEP team. The ~~district~~ LEA will ensure that a representative of the private school attends these meetings or participates by some other means.
- e. A parent shall be invited to Services Plan SP meetings at a mutually agreed upon date and time. The invitation must indicate the purpose, time, and location of the meeting. The parent shall be informed that he or she may bring other persons knowledgeable about the student to the meeting. A copy of the Services Plan SP will be given to the parent.
- f. The team developing the Services Plan SP will consider the student's strengths and results of the most recent evaluations. The private school general education teacher should participate in the development, review, and revision of the Services Plan SP.
- g. If necessary for a private school student to benefit from or participate in the services the ~~district~~ LEA has elected to provide, the ~~district~~ LEA shall provide transportation from the student's school or home to the site where services will be provided. The ~~district~~ LEA shall take the student back to either the private school or the home, depending on the timing of the services. ~~In this sense, transportation is not a related service but a means of making the services offered accessible.~~ Transportation costs may be included in the ~~district's~~ LEA's expenditure requirement. The ~~district~~ LEA is not required to transport the student from home to the private school.

F. Dispute Resolution

Due process hearings are available to parents of private school students only on the issue of ~~Child Find~~ child find and evaluation. Parents may challenge decisions regarding the provision of services by filing a state complaint with the ~~SDE~~ Idaho Department of Education.

(See Chapter 13 for more information on dispute resolution options.)

G. Determining the Proportionate Funding for Private School Students

IDEA requires ~~school districts~~ LEAs to dedicate at least a proportionate share of funds received under Part B to provide services for parentally-placed students with disabilities who attend private schools within the geographical boundaries of the ~~district~~ LEA, regardless of their place of residence. To determine this proportionate amount, the ~~district~~ LEA shall first determine the number of these private school students through the ~~Child Find~~ child find activities developed in the consultation process with private school representatives.

The number of parentally-placed private school students is divided by the total (public and

private) number of students with disabilities in the ~~district~~ LEA to arrive at the percentage of private school students with disabilities. This percentage is then applied to the total funding received by the ~~district~~ LEA under Part B grants Section 611 (ages three (3) ~~to through the day before a student's twenty-second (22) birthday~~ semester in which the student attains the age of twenty-one (21) years) and Section 619 (ages three (3) to five (5)) to determine the ~~district's~~ LEA's obligation.

Example for the XYZ LEA ~~School District~~:

- a. The number of parentally placed private school ~~children~~ students within the ~~district~~ LEA on December 1, ~~2017~~ 2023: 10
 - b. The number of public school ~~children~~ students with disabilities on December 1, ~~2017~~ 2023: 90
 - c. Percentage of private school ~~children~~ students with disabilities: A divided by A+B = 10%
 - d. Total Part B funds allocated for school year ~~2024-2025~~ ~~2017-2018~~: \$150,000
 - e. Amount the ~~district~~ LEA shall spend on providing special education and related services to parentally placed private school students in ~~2024-2025~~ ~~2017-2018~~: C x D = \$15,000
1. State and local funds may supplement but may not supplant the proportionate amount of federal funds required to be expended for parentally placed private school ~~children~~ students with disabilities.
 2. The costs of private school consultations and of carrying out ~~Child Find~~ child find activities may not be paid from the proportionate share of funds.
 3. The cost of any special education or related service, such as direct service, consultation as a service, equipment, materials, or transportation, may be used to determine that the ~~district~~ LEA has satisfied its expenditure requirement for private school students with disabilities.
 4. If all proportionate funds set aside for private school students in a given fiscal year are not expended in that year they shall be carried forward into the next year for the purpose of providing equitable services.

H. Expenditure Requirements ~~Guidelines~~

1. The ~~district~~ LEA may place equipment and supplies that are purchased with Part B funds in a private school for a period of time needed for a program for eligible students with disabilities; however, the ~~district~~ LEA shall:
 - a. retain title and exercise continuing administrative control over all equipment and supplies;

- b. ensure that all equipment and supplies are used only for Part B purposes;
 - c. remove equipment and supplies from a private school if no longer needed;
 - d. ensure that all equipment and supplies can be removed without remodeling the private school; and
 - e. remove equipment and supplies if necessary to prevent unauthorized use.
2. The ~~district~~ LEA may use Part B funds to pay an employee of a private school to provide services to students with disabilities when the employee performs the services:
- a. outside of his or her regular hours of duty; and
 - b. under public supervision and control.
3. Part B funds shall not be used to:
- a. finance the existing level of instruction in the private school or otherwise benefit the private school;
 - b. meet the needs of the private school; or
 - c. meet the general needs of students enrolled in the private school.
4. Part B funds shall not be used for repairs, remodeling, or construction of private school facilities.
5. If it is possible for classes to include students enrolled in both public and private schools, then the classes must not be organized separately on the basis of school enrollment or religion.
- ~~6. The district shall not appropriate any funds to private schools controlled by any church, sectarian, or religious denomination.~~

Section 3. Students Placed by the ~~District~~ LEA

When the ~~district~~ LEA places a student with a disability in a private school or facility, as a means of providing special education services through the IEP team process, the ~~district~~ LEA shall ensure the following:

- 1. All special education procedures and timelines are followed.
- 2. Special education and related services are provided in accordance with an IEP.
- 3. A representative of the private school or facility attends or participates in the meeting to develop the IEP. If the representative cannot attend other measures such as conference telephone calls will be used to ensure participation.

4. The responsibility for reviewing and revising IEPs remain with the ~~district~~ LEA.
5. Services are provided at no cost to the parent, including reimbursement to the parent for transportation and other costs associated with participation at an IEP team meeting conducted in a geographical area outside the jurisdiction of the ~~district~~ LEA.
6. The placement in the private school or facility is the least restrictive environment for that student.
7. The student is provided an education that meets state and district standards.
8. The student will participate in required statewide assessments.
9. The student is afforded the same rights as students with disabilities who attend public schools.
10. The parent is afforded the same rights as parents of students attending public schools.

In accordance with federal and state law, the ~~SDE~~ Idaho Department of Education shall approve special education programs in private schools and facilities. The ~~district~~ LEA shall ensure a program is approved prior to placing a student in that school or facility.

At the discretion of the ~~district~~ LEA, once a student with a disability enters a private school or facility, meetings to review and revise the IEP may be initiated and conducted by the private school or facility. If the private school conducts a meeting, the ~~district~~ LEA shall ensure that the parent and an ~~district~~ LEA representative are involved in and agree to any proposed changes in the IEP before the changes are implemented.

Section ~~5~~ 4. Unilateral Placement of Student by Parents when FAPE is an Issue

A. General Provisions for Reimbursement to the Parent

1. The ~~district~~ LEA is required to make FAPE available to all eligible students with disabilities. If parents do not access FAPE, then the ~~district~~ LEA is required to make provisions for private school students to receive Part B services consistent with Section 2E of this chapter.
2. The ~~district~~ LEA is not required to pay for costs of tuition, special education, or related services and associated costs at a private school or facility for a student who was unilaterally placed there by a parent if the ~~district~~ LEA made FAPE available to the student in a timely manner. If a parent disagrees with the availability of FAPE and there is a question about financial responsibility, the parent may request a due process hearing.
3. If the parent of a student with a disability enrolls the student in a private elementary or secondary school, without the consent of ~~or referral by~~ the ~~district~~ LEA, a court or hearing officer may order the ~~district~~ LEA to reimburse the parent for the costs of unilaterally placing the student in a private school if the court or a hearing officer determines that:
 - a. the ~~district~~ LEA had not made FAPE available to the eligible student in a timely manner

prior to the time the parent enrolled the student in the private school; and

- b. the ~~parent's~~ student's placement in the private school is appropriate.
4. A hearing officer may find a student's placement in a private school or facility by a parent appropriate even if the private school or facility does not meet state standards. A private school will be deemed appropriate if the parent demonstrates that the private placement provides educational instruction specially designed to meet the unique needs of the ~~child~~ student with a disability, supported by such services as are necessary to permit the ~~child~~ student to benefit from that instruction.

B. Denial or Reduction of Reimbursement to the Parent

A court or hearing officer may reduce or deny reimbursement to a parent for the cost of a unilateral placement in a private school or facility under the following circumstances:

1. The parent did not inform the ~~district~~ LEA that he or she rejected the placement proposed by the ~~district~~ LEA to provide FAPE and did not state his or her concerns and intent to enroll the student in a private school. This notification by the parent shall be provided to:
 - a. the IEP team at the most recent IEP team meeting prior to removing the student from the public school; or
 - b. the ~~district~~ LEA, in writing, at least ten (10) business days (including any holidays that occur on a business day) prior to removing the student from public school.
2. Prior to removal of the student from the public school, the ~~district~~ LEA informed the parent of its intent to evaluate the student (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parent did not make the student available for the evaluation.
3. A judicial decision finds unreasonableness with respect to the actions taken by the parent.

Reimbursement shall not be reduced or denied under any of the following circumstances:

1. The ~~district~~ LEA did not notify the parent of his or her obligation to ~~notify the LEA prior to unilaterally placing the student in the private school~~ provide the notice set forth in ~~number 3 above~~ or the ~~district~~ LEA prevented the parent from providing that notice.
- ~~2. The parent had not received written notice.~~
2. The ~~district's~~ LEA's proposed placement would likely result in physical harm to the student.

Reimbursement may not be reduced or denied at the discretion of a court or hearing officer for failure to provide this notice if:

1. The parents are not literate or cannot write in English, or

2. The ~~district's~~ LEA's proposed placement would likely result in serious emotional harm to the student.

Section 4 5. Dual Enrollment of Private School Students by Parents

According to Idaho Code, parents of private school students “shall be allowed to enroll the student in a public school for dual enrollment purposes.” Private school students who are dually enrolled are considered to be nonpublic school students. The ~~district~~ LEA shall allow private school students who are eligible for special education and who are otherwise qualified to participate in school programs under the dual enrollment law to:

1. enroll in general education courses under the same criteria and conditions as students without disabilities; and
2. receive accommodations in the general education courses for which they are enrolled on a Section 504 Plan, if needed.

Private school students may not dually enroll solely for special education and/or related services. The dual enrollment statute does not establish an entitlement to FAPE for a student with a disability. This means that there is no individual right to receive some or all special education services that the student would receive if enrolled in public school.

The reporting of attendance for private school students in the ~~district~~ LEA is allowed under dual enrollment. The Idaho Department of Education's Public School Finance Department's procedures will be followed to calculate the funding for dually enrolled students. ~~If a student attends at least 2.5 hours per week without rounding hours, he or she shall be included in the weekly aggregate attendance. The average daily attendance (A.D.A.) is computed as .5 if the aggregate weekly hours are 2.5 or greater but less than 4.0 hours. When there are 4.0 hours or greater, divide by 4 to get the A.D.A.~~

Dually enrolled private school students could also be eligible to receive services that have been agreed upon through the ~~district~~ LEA and private school consultation process. These services would be delivered through a ~~SP~~ Services Plan.

Section 6. Out-of-State Students Residing in Residential Facilities

For school-age special education students from outside the state of Idaho who, due to the nature and severity of their disabilities, are residing in licensed public or private residential facilities within the state of Idaho, the ~~school district~~ LEA in which the residential facility is located will provide education services to such students if requested by the licensed public or private residential facility and an agreement is entered into with the residential facility. The ~~district~~ LEA will be given the opportunity to provide input on any federally required education programs or plans for such students.

A. Contract for Education Services

The contract with a residential facility will include the following provisions:

1. The education services to be provided by the ~~district~~ LEA.
2. The amount to be paid by the licensed public or private residential facility to the ~~district~~ LEA.

The amount paid will be equal to the ~~district's~~ LEA's full cost of providing the education services delineated by the contract as determined by the ~~district~~ LEA. Such students will be excluded from all average daily attendance and other reports provided to the state that would result in the distribution of state funding to the ~~district~~ LEA.

In the event a residential facility fails to sign a contract with the ~~district~~ LEA agreeing to pay the full cost for providing education services, the ~~school-district~~ LEA in which the residential facility is located will not be responsible for providing education services to the out-of-state students residing in the residential facility.

B. Determining Residency

In determining whether a student is from outside the state of Idaho, the ~~school-district~~ LEA in which the residential facility is located will determine the primary residency of the student's parent or guardian. Proof of Idaho residency will be established by showing a current ~~an~~ Idaho motor vehicle driver's license, payment of Idaho state income taxes, utility bill from a primary residence, or other documentation evidencing residency within the state of Idaho.

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CHAPTER 10: HOMESCHOOL STUDENTS

In Idaho, private school students and homeschool students are both types of “nonpublic school students.” For the purposes of this chapter, “nonpublic school student” refers to a homeschool student. A homeschool student is not enrolled in a private school and is not considered a private school student. A student who is enrolled in a virtual public school or a home learning program through a public school is not considered a homeschooled student for the duration that they attend that virtual public school or home learning program.

A homeschool student does not have an individual right to receive the special education and related services they would receive if enrolled in a public school.

Section 1. Definitions

Homeschool. Homeschool means an education program delivered by parents who have decided to provide instruction in the home and not in a public or private school. A homeschool is a nonpublic school but is not considered a private school. A virtual public school is not a homeschool.

Homeschool Student. A homeschooled student is one whose parents have decided to provide an educational program in the home with instruction provided by the parents. A homeschool student is considered a nonpublic school student but is not considered a private school student. A student who is enrolled in a virtual public school is not considered a homeschooled student for the duration that they attend that virtual public school.

Section 2. District Responsibility

A. Child Find Requirements

The district shall have an ongoing child find system to locate, identify, and evaluate all students with disabilities ages three (3) through the ~~day before their twenty-second (22nd) birthday~~ semester in which the student attains the age of twenty-one (21) years residing within the district’s geographic boundaries. This includes students whose parents/guardians have chosen to homeschool their children.

The child find process will be designed to encompass the following:

1. Child find activities for homeschool students will be similar to child find activities for public school students.
2. The district shall offer to conduct an evaluation of a homeschool student identified through the child find process who may need special education and related services. An evaluation will be conducted only after receiving written parental consent.

See Chapter 3 for more information about child find and Chapter 4 for more information about evaluation procedures.

B. Provision of Special Education Services

Parental Consent for a Special Education Evaluation

If a parent of a child who is homeschooled does not provide written consent for an initial evaluation or reevaluation, or the parent fails to respond to a request to provide written consent, the district may not use mediation or due process procedures in order to gain consent and the district is not required to consider whether the child is eligible for services.

Eligibility for Services

When a student is determined to be eligible for special education and related services, the district in which the student resides must develop an IEP that outlines FAPE for the student so that the parent can make an informed decision regarding enrollment in the public school district or continuing with homeschooling. This district may not require that the student enroll in the public school before an offer of FAPE is made.

If a parent is unsure of their intention to accept an offer of FAPE and enroll the student in public school or continue with homeschooling, the district of residence is required to develop an IEP that offers the student FAPE, to be implemented upon the student's enrollment in the district. The district has no obligation to implement the IEP unless the student enrolls in the public school.

If a parent makes clear their intention to continue homeschooling their child, the district of residence is not required to develop an IEP that offers the student FAPE.

Withdrawal of Student from LEA

Whenever a parent elects to homeschool their child and withdraws the student from a public school, the LEA shall provide the parent with written notice of the change in the LEA's obligation to provide FAPE to the student and indicate willingness to resume providing services to the student upon reenrollment in the LEA.

C. Dispute Resolution

Due process hearings are available to parents of homeschool students only on the issue of child find and evaluation. Parents may challenge decisions regarding the provision of services by utilizing the state complaint process provided by the Idaho Department of Education.

Section 3. Dual Enrollment of Homeschool Students

Idaho law permits parents of homeschool students to enroll the student in any public school, including a public charter school, for dual enrollment purposes. Homeschool students who are dually enrolled are nonpublic school students. Upon dual enrollment, the LEA shall provide appropriate services to those students who are eligible for special education, and who are otherwise qualified to participate in school programs in the LEA. Such services shall be provided only in the public-school setting.

The reporting of attendance for homeschool students in the district is allowed under dual enrollment. The Idaho Department of Education's Public School Finance Department's procedures will be followed to calculate the funding for dually enrolled students.

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CHAPTER 11: DISCIPLINE

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CHAPTER ~~12~~-11: DISCIPLINE

LEAs are encouraged to address challenging student behavior through tiers of positive behavior support to ensure that all students, including students with disabilities, are proactively taught explicit behavioral expectations. Within the tiered system, the LEA should ensure a consistent system is in place to reinforce and re-teach these expectations or otherwise respond to behavioral errors. If a student with a disability engages in challenging behavior that is physically dangerous or otherwise significantly interferes with the learning of self or others and it cannot be addressed through schoolwide and classroom systems alone, the IEP team shall consider the need for more intensive behavior supports, including but not limited to, an individualized behavior intervention plan (BIP). Note that the most effective behavior plans are developed using data gathered during some form of functional behavior assessment (FBA) process. Behavior interventions, whether initial or revised based on changes in behavioral need, shall be documented in and implemented as part of the IEP.

Students with disabilities who violate the LEA Code of Conduct and are subject to exclusionary disciplinary action are entitled to all due process rights afforded to students *without* disabilities under Section 33-205, Idaho Code and other State and local policies. Exclusionary discipline includes a school's removal of a student from their regular education setting, including but not limited to in/out of school suspension, expulsion, detention, bus removal, removal from extracurriculars, shortened days, informal removals, placement in an alternative location, and other disciplinary responses that remove students from general education instruction, services, or peers. The IDEA provides **additional** protection through special discipline procedures for students with a disability when the disability has or will result in a change of the student's placement. Even though Idaho Code allows LEA personnel to "temporarily" suspend students for up to twenty (20) school days, all students with disabilities for whom educational services have ceased for more than ten (10) school days, consecutive or cumulative, in a school year retain the right to FAPE.

This chapter outlines the procedural requirements for the discipline of students with disabilities to ensure that the impact of the disability on the student's behavior is considered when a change of placement may take place as a result of a violation of the code of conduct and to ensure that students with disabilities continue to receive FAPE.

Section 1. Supporting Challenging Behavior

A. Tiered Behavior Supports

Given the negative outcomes associated with, and the disparities in the use of, exclusionary discipline, LEAs should minimize its use. There may be instances when a student's behavior, such as causing physical harm to self or others, warrants temporary exclusionary disciplinary action. Preventing challenging behavior before the need for discipline arises is the most effective way to address problem behavior. A responsive tiered system of supports is a comprehensive *prevention* framework designed to improve developmental, social, emotional, academic, and behavioral outcomes using a continuum of evidence-based strategies and supports. Within a tiered framework, educators implement:

1. universal strategies and supports designed for all students;

2. targeted strategies and supports for students with additional needs; and
3. intensive strategies and supports to meet the specific needs of individual students.

Evidence-based, tiered systems of intervention and behavioral supports use systematic tiered approaches to create positive, predictable school climates that prevent most challenging behavior at the schoolwide and classroom levels. The focus of instruction is to explicitly teach and practice desired, prosocial skills to ensure student access to the general education environment. LEAs should implement intentional, structured systems to reinforce or reteach behaviors. The intensity of interventions should be individualized and tailored to be proportionate to the intensity of behavioral skill deficits.

B. Individualized Behavior Planning

Behavioral challenges in schools are often the result of a mismatch between a student's current skill set and the expectations of the environment.

When behavioral challenges are not sufficiently addressed through schoolwide and classroom interventions and the behavior of a student with a disability significantly impacts the student's learning and/or the learning of others, the IEP team shall determine the extent to which additional services or supports are needed to enable the student to continue to participate in the general education curriculum and to progress towards meeting IEP goals. The team shall consider:

1. preventative, individualized positive behavior supports;
2. a functional behavioral assessment; and/or
3. a behavior intervention plan (BIP) and services designed to address the behavior so that it does not recur.

C. Essential Components of a Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP)

Functional Behavior Assessment (FBA). An FBA is not necessarily a specific form or tool. It is a process of analyzing the *function* or purpose of the challenging behavior. An effective FBA includes the following components:

1. A specific, physically observable definition of the prioritized challenging behavior(s);
2. Information gathered from multiple sources including, but not limited to, interview of educational partners/caregivers, review of data collected over multiple days, and direct observation;
3. An analysis of the pattern of the most frequent *antecedents*, or events that precede the behavior;
4. An analysis of the most frequent *consequences*, or events that follow the behavior and most likely are reinforcing or maintaining the challenging behavior; and

5. A culminating summary of the pattern of events preceding and following a behavior which informs its function and drives intervention.

Behavior Intervention Plan (BIP). The purpose of a BIP is to use information about the function of the behavior to *change the behavior patterns* through pre-determined strategies. A BIP is composed of plans to:

1. prevent the challenging behavior;
2. teach to skill deficits by identifying replacement behaviors based on the function of the challenging behavior; and
3. respond effectively to either reinforce desired behaviors or re-teach in response to challenging behaviors.

Note: LEAs are only required to conduct and/or review FBAs and BIPs in certain circumstances, such as when a student is subjected to a disciplinary change of placement. For more information, see Section 3 “Change of Placement” below.

Section 2. Educational Services and Types of Removal

For students with disabilities, free appropriate public education (FAPE) means that educational services cannot cease for more than ten (10) days, consecutive or cumulative, in a school year as a result of removals imposed unilaterally by the LEA. “Unilateral” means that an action was taken outside of the special education process, and the action was not the result of an IEP team decision. In the case of discipline for students with disabilities, unilateral removal from educational services means that the LEA, without the agreement or participation of the IEP team, denies the provision of educational services to a student. This typically happens through some type of exclusionary discipline.

Educational services for a student include:

1. the opportunity to continue to participate appropriately in general education instruction and curriculum;
2. services outlined in the student’s IEP; and
3. participation with nondisabled peers to the same extent as the student participates with nondisabled peers in the current placement.

Unilateral removal by the LEA that results in the discontinuation of any one of the three components of educational services is considered a disciplinary removal. There are several types of removal that schools use to address challenging behavior or impose discipline that result in the discontinuation of educational services.

1. **Suspension.** Suspension means a temporary stop, delay, interruption, or discontinuation of educational services due to a violation of the student code of conduct.
2. **In-school suspension (ISS).** ISS means removal from the IEP-determined placement within the school setting. ISS is considered a disciplinary removal unless all three components of educational services are provided to the student. These include:
 - a. participation in general education instruction and curriculum;

- b. access to services outlined in the student's IEP; and
 - c. participation with nondisabled peers to the same extent as the student participates with nondisabled peers in the current placement.
 - d. If one or more of these components is not provided, then the ISS must be counted in the ten (10) consecutive or cumulative removals leading to change in placement.
3. **Out-of-school suspension (OSS).** OSS means removal from the school and the IEP-determined placement for all or part of a school day. OSS is always considered a disciplinary removal as it, by definition, ceases one or more of the required components of educational services. OSS must be counted in the ten (10) consecutive or cumulative removals constituting a change in placement.
4. **Informal Removal.** Informal removal includes action taken outside of IDEA's discipline provisions by school personnel in response to student behavior which results in the student being excluded for all or part of a school day or for an indefinite period of time. Examples of informal removals include:
- a. Removal for a portion of a school day that a student has been suspended;
 - b. Removal of the student from class;
 - c. Removal from LEA-provided transportation;
 - d. Sending the student home early;
 - e. Repeated reliance on law enforcement or school resource officer (SRO) intervention to manage behavior; or
 - f. Calling a parent/guardian to pick up a student.
 - g. Informal removals are considered disciplinary removals and must be counted in the ten (10) consecutive or cumulative removals leading to change in placement.
- Note:** The use of a shortened school day or homebound instruction in a student's IEP to manage or minimize behavior are strategies that should be used only in extremely rare circumstances and should never be used for administrative convenience.
5. **Transportation Suspension.** Transportation suspension means suspension or removal from LEA-provided transportation as a disciplinary measure. When a student's IEP lists transportation as a related service, removal or suspension of transportation services is considered a disciplinary removal and must be counted in the ten (10) consecutive or cumulative removals leading to change in placement.
- a. If the IEP team determines that special transportation is required as a related service, it must be included in the IEP, and all procedural safeguards under the IDEA shall be afforded to the student in matters concerning transportation. Whether a suspension from the bus counts as a suspension from school depends on whether bus transportation is identified on the IEP.
 - b. If bus transportation is on the IEP, a suspension from the bus would be treated as a suspension from school (unless the LEA provides transportation services in some other way, such as "transportation in lieu of") because transportation is necessary for the student to obtain access to the location where all other services will be delivered.

- c. If bus transportation is not on the IEP, a suspension from the bus would not be counted as suspension from school. In this case, the student and the parent would have the same obligation to get to and from school as a student without a disability who had been suspended from the bus.
- d. If the student's behavior on the bus results in a suspension from the bus, the IEP team shall consider whether the behavior should be addressed in the IEP through a Behavior Intervention Plan (BIP).

Section 3. Change of Placement

A student's educational placement describes the setting where the student's educational services are provided. Educational placement is determined by the IEP team after considering the student's needs, setting goals, and identifying the services required to meet those needs. Teams are obligated to make placement decisions that ensure the student is educated with nondisabled peers in the least restrictive environment to the maximum extent appropriate.

Educational placement does not necessarily refer to the physical location where services will be provided. Rather, "placement" refers to the continuum of educational settings and the overall amount of time the student will spend in the general education setting. Types of educational placements include:

1. General education setting
2. Special education setting
3. Home/hospital
4. Correctional facility
5. Parentally-placed in private school
6. Public/private residential setting
7. Public/private separate day school

A student's educational placement changes when the amount of time the student is served in a general education setting, including the amount of time the student participates with non-disabled peers, increases or decreases.

A. Disciplinary Actions Resulting in a Change of Placement

Educational services cannot cease for more than ten (10) school days, consecutive or cumulative, as a result of unilateral disciplinary removal. A disciplinary change of placement occurs when:

1. The student is unilaterally removed by the LEA from the IEP-determined placement for disciplinary reasons for more than ten (10) consecutive school days; or
2. The student is unilaterally removed by the LEA for more than ten (10) cumulative school days when the removals constitute a pattern. Disciplinary removals constitute a pattern:

- a. when the series of removals, including instances of OSS, ISS, bus suspension when transportation is listed as a related service on the IEP, and other informal removals, ~~total~~ totals more than ten (10) school days in a school year;
- b. when the student's behavior is substantially similar to behavior in previous incidents included in the series of removals; and/or
- c. ~~because of such~~ when additional factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another are substantially similar to previous removals.
- d. There are two primary considerations when determining whether a pattern of removals has occurred:
- e. Consider the behavior itself, and whether the behavior is substantially similar to previous behavior that has resulted in removal. Consider whether behaviors are similar in terms of the antecedents, or triggers, leading to the behavior, and the type of behavior displayed.
- f. Consider the school's response to behavior and whether removal as a response to challenging behavior has resulted in a pattern of removal.

Removals such as being sent to the office from class, missing lunch or recess, being "kicked out" of class, detention, removal from extracurriculars, or other removal from general education instruction and curriculum, special education services, or access to nondisabled peers as a result of disciplinary action shall be considered when determining whether there is a pattern of removals leading to a change in placement.

The LEA shall ensure that each instance of disciplinary removal, whether formal or informal and whether imposed for a full day or partial day, is documented. LEAs should intervene with challenging behavior leading to disciplinary removals as early as possible to implement measures to prevent continued removals.

See Section 4 of this chapter for more information about Manifestation Determination.

B. ~~Hearing Officer Actions Resulting in a~~ Change of Placement Ordered by a Hearing Officer

~~Through an expedited due process hearing, district~~ The LEA may ask a hearing officer to place a student with a disability in an appropriate Interim Alternative Educational Setting (IAES) through an expedited due process hearing. In seeking an order from a hearing officer to place a student in an IAES, the LEA ~~district~~ must:

1. prove that maintaining the current placement is substantially likely to result in injury to the student or others; and
2. indicate whether the request is for an *initial* period of not more than forty-five (45) school days or an *additional* period of not more than forty-five (45) school days.

In determining whether to grant an LEA's ~~a district's~~ request to place a student in an IAES, the hearing officer must determine that the IAES proposed by the IEP team is appropriate.

Section 4. Manifestation Determination

A. Determining the Need for Manifestation Determination

Whenever disciplinary action results in a change in placement the LEA ~~district~~ shall:

1. notify the parent/adult student of the disciplinary action to be taken on the date of the decision to take the disciplinary action and provide a copy of the *Procedural Safeguards Notice*;
2. conduct a manifestation determination immediately, if possible, but not later than ten (10) school days after the date on which the decision to take the disciplinary action is made.
 - a. Teams should not wait until the need for a Manifestation Determination arises to address challenging behavior and determine whether additional supports including preventative, individualized positive behavior supports, an FBA, and/or a BIP are needed. The IEP team should continually monitor the student's educational performance, which includes behavior, and convene to address challenging behaviors as they arise.
 - b. Educational services cannot cease for more than ten (10) school days; educational services must be provided on the eleventh (11th) day and beyond, even while scheduling the Manifestation Determination.

See Section 3 above for information related to disciplinary actions resulting in a change of placement.

B. Manifestation Determination Process

A manifestation determination is the process used to review and determine the relationship between the student's disability and the behavior subject to disciplinary action. The results of the manifestation determination dictate the LEA's options and obligations related to further disciplinary action.

1. Team Members Included in the Manifestation Determination The parent/adult student and relevant IEP team members shall conduct the manifestation determination. When determining which IEP team members will participate in the manifestation determination review, consider the following:
 - a. The parent/adult student shall be included;
 - b. An LEA administrator shall be included; and
 - c. Other relevant team members, including the following, shall be included:
 - 1) Individual(s) able to speak to the known impact of the student's disability, including current and past performance. This may include:
 - i. School psychologist;
 - ii. School counselor;
 - iii. Speech language pathologist; and/or

- iv. Other individuals who are qualified to interpret assessment results, review student records, and/or help the team understand the impact of the disability on behavior.
- 2) Individual(s) able to speak to the implementation of the IEP. This may include:
 - i. Special education teacher;
 - ii. Related services professionals;
 - iii. General education teacher;
 - iv. Behavior interventionist; and/or
 - v. Other individual(s) knowledgeable about the IEP and how it is implemented.
- 2. Manifestation Determination Review
 - a. The parent/adult student will be notified of the disciplinary action and provided with a copy of the *Procedural Safeguards Notice* not later than the date on which the decision to take disciplinary action is made.
 - b. A manifestation determination meeting will be held no later than ten (10) school days of any decision to change the placement of a student with a disability for disciplinary reasons. The team will consider:
 - 1) the student's disability, which includes the student's identified disability or disabilities, areas of concern noted by the team or served through the IEP or BIP, history of behavior, and other relevant information;
 - 2) whether the conduct in question is similar to or consistent with behavior previously demonstrated by the student;
 - 3) teacher observations and input;
 - 4) all relevant information in the student's file, including the student's IEP and historical records of behavior, discipline, and interventions provided; and
 - 5) any relevant information provided by the parent/adult student;
 - c. In light of this information, the team will determine whether the conduct in question was:
 - 1) caused by or had a direct and substantial relationship to the student's disability;
 - i. The team will consider the student's disability, which includes the student's identified disability or disabilities, areas of concern noted by the team or served through the IEP or BIP, history of behavior, and other relevant information. The team will consider whether the conduct in question is similar to or consistent with behavior previously demonstrated by the student.
 - ii. The team is NOT considering a specific eligibility category or disability and making general statements about how that disability

might affect a student. The team must consider how the known disability or disabilities of the student have been known to manifest for this student; or

- 2) the direct result of the LEA's failure to implement the IEP.
 - i. The team will review the student's IEP, and any current FBA, and BIP and determine whether the student has been provided the services and supports as outlined in the IEP and existing BIP.
 - ii. The team will also consider such factors as:
 - a. whether the student received all required services as listed in the IEP;
 - b. whether the student received accommodations and adaptations outlined in the IEP;
 - c. whether the student received the level of support and supervision agreed upon by the IEP team; and
 - d. whether all aspects of a current BIP were implemented consistently and correctly, including preventative, teaching, and response strategies.

Note: The team should consider more than whether the IEP was being implemented at the time that the behavior occurred. The team should also consider whether the IEP has been implemented correctly and consistently over time, and whether any failure to do so may have contributed to the behavior.

- d. If the LEA, parent, and relevant IEP team members find that either *c. 1)* or *c. 2)* above is true, the student's behavior shall be determined to be a manifestation of the student's disability.

3. Manifestation Determination Review Consensus

- a. All members of the team are expected to work toward consensus regarding manifestation determination to ensure the student receives a free appropriate public education (FAPE).
- b. Consensus means a commitment of all team members to support the decision of the team, which requires that all members of the team have an opportunity for meaningful participation.
- c. If the parent/adult student, school personnel, and other team members are unable to reach consensus regarding a decision, then school personnel on the team should seek consensus within the school team and provide written notice to the parent/adult student.
- d. If school personnel are unable to reach consensus, then the LEA representative on the team shall make the decision and provide written notice to the parent/adult student.
- e. The parent/adult student will be made aware of their procedural safeguards, including due process rights.

Section 5. Actions following a Manifestation Determination

The results of the Manifestation Determination Review determine what steps must be taken next and what disciplinary options are available to the LEA.

A. When the Behavior is a Manifestation of the Disability

If a student's behavior is determined to be a manifestation of the student's ~~his or her~~ disability, ~~relevant members of the IEP team, as determined by the parent and district, will~~ shall:

1. conduct an FBA and implement a BIP for the student if the LEA ~~district~~ had not conducted such an assessment prior to the behavior that resulted in a change in placement; or
2. review the BIP if one had previously been developed and modify it as necessary to address the behavior; and
3. return the student to the placement from which the student ~~he or she~~ was removed, unless the parent and LEA ~~district~~ agree in writing to a change of placement as part of the modification of the BIP.

~~If there were grounds to place a student in an IAES, the student may remain in the IAES even if there was a manifestation.~~

B. When the Behavior is ~~not~~ Not a Manifestation of the Disability

If the relevant members of the IEP team, ~~which includes parents/adult students, (relevant members determined by the parent and the district),~~ determines that the student's behavior was not a manifestation of ~~his or her~~ the disability, the same disciplinary procedures applicable to students without disabilities, including long-term suspension or expulsion, may be applied to the student with a disability. ~~The district will forward special education and disciplinary records for consideration to the board of trustees, which makes the final decision regarding the disciplinary action.~~ LEAs should consider whether the student is eligible for protections under Section 504 of the Rehabilitation Act before taking disciplinary action.

Even if the disciplinary action is to suspend or expel, the following provisions shall be met:

1. Educational services cannot cease for more than ten (10) school days in a school year. Educational services shall be provided to the extent necessary to allow the student with a disability to continue to participate in the general education curriculum and the opportunity to advance toward achieving the goals set out in student's ~~his or her~~ IEP.
See Section 6C of this chapter for more information about FAPE during expulsion.
2. An IEP team shall convene to develop an IEP that specifies what special education and related services will be provided during the period of suspension or expulsion and the setting where the services will be provided.

C. Interim Alternative Education Setting (IAES)

Placement in an IAES for forty-five (45) school days may occur regardless of whether the behavior is a manifestation of the disability when the criteria for such placement are met. If there were grounds to place a student in an IAES, the student may remain in the IAES even if the behavior is found to be a manifestation of the disability.

1. The LEA ~~may remove~~ ~~removes~~ a student to an Interim Alternative Educational Setting (IAES) for not more than forty-five (45) school days without regard to whether the behavior is determined to be a manifestation of the student's disability if the student:
 - a. Carries a weapon to or possesses a weapon at school, on school premises, ~~or to~~ or at a school function under the jurisdiction of a State Education Agency (SEA) or a Local Education Agency (LEA); or
 - 1) ***Dangerous weapon*** means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocketknife with a blade of less than 2½ inches in length.
 - b. knowingly possesses or uses illegal drugs *or* sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA; or
 - 1) ***Controlled substance*** means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act [21 U.S.C. 812(c)].
 - 2) ***Illegal drug*** means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.
 - c. has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA.
 - 1) ***Serious bodily injury*** means bodily injury which involves:
 - i. a substantial risk of death;
 - ii. extreme physical pain;
 - iii. protracted and obvious disfigurement; or
 - iv. protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

To qualify for an IAES on this basis, the injury must be severe. Minor injuries are not sufficient.

D. Request for Expedited Hearing

An expedited hearing is a hearing that occurs within twenty (20) school days of the request for a hearing, with a decision rendered within ten (10) school days of the hearing. The party

requesting the hearing bears the burden of proof.

1. The parent/adult student may request an expedited due process hearing if ~~the parent/adult student he or she:~~
 - a. disagrees with the determination that the behavior was not a manifestation of the student's disability;
 - b. disagrees with any decision of the IEP team regarding a change of placement for disciplinary reasons, including a decision regarding the student's placement in an IAES during a disciplinary proceeding; or
 - c. disagrees with the decision regarding the student's placement in an IAES.
2. The LEA ~~district~~ may request an expedited hearing if it believes that maintaining the current placement is substantially likely to result in injury to the student or to others.
3. When an expedited hearing ~~appeal of a disciplinary action~~ is requested (by the parent/adult student to challenge the disciplinary action or by the LEA ~~district~~ to seek removal to an interim setting), ~~and the student was placed in an IAES~~, the student remains in the IAES pending the decision of the hearing officer or the expiration of the disciplinary placement term, whichever occurs first, unless the parent/adult student and LEA ~~district~~ agree otherwise.
4. ~~Resolution meeting requirements apply, unless waived by the parties. The resolution meeting timeline but are shortened to fifteen (15) and is seven (7) days. A resolution session shall occur within seven (7) days of receipt of an expedited due process hearing request unless the parties agree in writing to waive the resolution session or go to mediation. Timelines are firm and may not be waived by either party.~~
5. The due process hearing shall proceed unless the matter has been resolved to the satisfaction of both parties within fifteen (15) days of the hearing request, or the hearing request is withdrawn. There is no process for challenging the sufficiency of an expedited due process hearing request. Timelines are firm and may not be waived by either party.
6. A decision of a hearing officer in an expedited hearing is final. The decision may be appealed to either federal district court or state court or court of competent jurisdiction. ~~Federal or state district court.~~

See Chapter 13, ~~Sections 4 and 5~~, for an explanation of regular and expedited due process hearing rights and procedures.

Section 6. FAPE Considerations

A. Protections for Students Not Yet Eligible for Special Education

A student who has not been determined eligible for special education and who has violated any rule or code of conduct of the LEA ~~district~~ may assert the protections of the IDEA *if* the LEA ~~district~~ had knowledge that the student was a student with a disability before the behavior occurred that precipitated the disciplinary action.

1. Basis of knowledge

With limited exceptions, which are described in item 2 below, the LEA ~~district~~ will be deemed to have knowledge that an individual is a student with a disability if, before the behavior that precipitated the disciplinary action occurred, one or more of the following is true:

- a. The parent or adult student has expressed concern to a teacher or LEA administrator that the student may need special education and related services; ~~supervisory or administrative district personnel or a teacher of the child that the student is in need of special education and related services.~~
- b. The parent/adult student has requested that the student be evaluated for special education; or
- c. The student's teacher or other LEA ~~district~~ personnel have expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of special education or to other LEA ~~district~~ supervisory personnel in accordance with the LEA's ~~district's~~ established Child Find system or special education referral system.

2. No basis of knowledge

The LEA ~~district~~ will be deemed not to have knowledge that an individual is a student with a disability if one or more of the following is true:

- a. An evaluation was conducted and a determination was made that the student did not have a disability;
- b. The parent/adult student did not give written consent for an evaluation; or
- c. The parent/adult student refused special education services.

If the LEA ~~district~~ did not have a basis of knowledge that a student was a student with a disability prior to taking disciplinary measures, the student is subjected to the same disciplinary measures applied to all other students who engage in comparable behaviors.

B. Parent Request for Evaluation

If a request for an evaluation of a student who is not currently eligible for special education is made during the period in which the student is subject to disciplinary measures, the evaluation shall be conducted in an expedited manner. Pending the results of the evaluation, the student will remain in the educational placement determined by LEA ~~district~~ officials, which can include suspension or expulsion without educational services.

1. If the student is subsequently determined eligible for special education, the LEA ~~district~~ shall:
 - a. Convene an IEP team meeting to develop an IEP.
 - b. Conduct a manifestation determination.
 - 1) If the behavior is caused by or had a substantial relationship to the student's disability, the disciplinary action must be set aside, and the student must be

provided appropriate educational services in the least restrictive environment (LRE).

- 2) If the behavior is ~~not~~ ~~neither~~ caused by nor had a substantial relationship to the student's disability, the student is subject to the disciplinary placement that had been determined, but ~~the student~~ ~~he or she~~ is still entitled to receive FAPE, which is determined by the IEP team.
 - i. Educational services cannot cease for more than ten (10) school days in a school year.
 - ii. Educational services shall be provided to the extent necessary to allow the student with a disability access to the general education curriculum and the opportunity to advance toward achieving the goals set out in his or her IEP.
- 3) If there were grounds to place a student in an IAES, the student may remain in the IAES for up to forty-five (45) school days even if the behavior is found to be a manifestation of the disability.

See Section 5 of this chapter for information about placement in an IAES.

2. If the evaluation team determines that the student is not eligible for special education, ~~the student~~ ~~he or she~~ will be subject to the same disciplinary actions as all other students. LEAs should consider whether the student is eligible for protections under Section 504 of the Rehabilitation Act before taking disciplinary action.

C. FAPE during IAES and Expulsion

Students with disabilities continue to have the right to FAPE during the period of expulsion or placement in an IAES. This means that educational services must be provided. In the case of expulsion, services may be provided in a different location than outlined in the student's current IEP and may limit or eliminate access to nondisabled peers during the expulsion period. During the period of expulsion or IAES placement, services shall be provided to the extent necessary to:

1. allow the student to continue to participate in the general education curriculum;
2. provide an opportunity to advance toward achieving the goals set out in the student's IEP; and
3. allow the student to receive, as appropriate, a functional behavior assessment (FBA) and behavioral intervention services and modifications that are designed to address the behavior so that it does not recur.

It is not sufficient to provide only special education and related services during an expulsion period. The student must continue to have access to the general education curriculum and to progress toward grade-level standards that apply to all students. Behavior needs and goals must also continue to be addressed, regardless of the location of services and for the duration of the expulsion.

The primary difference in the provision of FAPE for a student during expulsion is the location of services and access to peers, the school environment, and other curricular and non-curricular activities. The IEP team determines what services will be provided and the location of the service provision. The IEP team cannot decide to provide less than what is required for the student to receive a FAPE.

The LEA that expels the student is responsible for the provision of FAPE for the duration of the expulsion period or until the student enrolls in another public school. The LEA is also responsible for ensuring that the expelled student participates in all required State and Federal testing, such as the ISAT, IRI, and Access testing. Although Idaho Code indicates that expelled students are considered exited students for the purpose of participation in required State assessments, this provision does NOT apply to IDEA-eligible students who have been expelled.

Section 7. Restraint and Seclusion

A. Definitions

The following definitions apply to the use of restraint and seclusion:

1. **Corporal Punishment.** Knowingly and purposely inflicting physical pain on a student as a disciplinary measure.
2. **Chemical Restraint.** Using drugs or medication to control behavior; not including those prescribed by and administered in accordance with the directions of a qualified health professional.
3. **Mechanical Restraint.** The use of any device or equipment to restrict a student's freedom of movement. This term does not include devices implemented by trained school personnel, or utilized by a student that have been prescribed by an appropriate medical or related services professional and are used for the specific and approved purposes for which such devices were designed, such as:
 - a. Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports;
 - b. Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;
 - c. Restraints for medical immobilization; or
 - d. Orthopedically prescribed devices that permit a student to participate in activities without risk of harm.
4. **Physical Escort.** Temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of directing a student to a safe location. Physical escorting that involves methods used to immobilize a student's movement should be considered a physical restraint.
5. **Physical Restraint.** Personal restriction that immobilizes or reduces the ability of a student to move the student's torso, arms, legs, or head freely. The term physical restraint does not include a physical escort.

6. **Seclusion.** The involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. It does not include a timeout, which is a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming.

B. Use of Restraint and Seclusion

1. Corporal punishment shall not be used.
2. Chemical restraint shall not be used.
3. Restraint and/or seclusion:
 - a. shall not be used as forms of discipline or methods of classroom governance;
 - b. may be deployed only in circumstances where a student's conduct has placed self, employees, or any other individual in imminent danger of serious bodily harm; and
 - c. shall be terminated immediately once it is determined that the student is no longer an immediate danger to self or to any other individual or when a parent or legal guardian has taken custody of the student.

Section 8. Other Considerations

A. Referrals to and Action by Law Enforcement and Judicial Authorities

1. The LEA ~~district~~ may report a crime committed by a student with a disability to appropriate authorities. The IDEA does not prevent state law enforcement or judicial authorities from exercising their responsibilities, with regard to the application of federal and state law, for crimes committed by a student with a disability.
 - a. Referral to law enforcement does not take the place of IDEA-required procedures outlined in this chapter. The LEA continues to have the obligation to ensure that disciplinary procedures for students with disabilities are in place and that students continue to receive FAPE.
 - b. Overreliance on an SRO or law enforcement intervention as a means of managing challenging behavior may result in a denial of FAPE.
2. If a student brings a firearm to school, law enforcement shall be contacted pursuant to the Gun-Free Schools Act.
3. If the LEA ~~district~~ reports a crime, it will ensure that copies of the special education and disciplinary records of the student are given to the appropriate law enforcement authorities for their consideration, to the extent the release of records is permitted by the Family Educational Rights and Privacy Act (FERPA). Generally, the release of records requires consent, but exceptions are listed in Chapter ~~11, Section 5-12~~.

B. Court Actions Resulting in a Change of Placement by Court Order (Honig Injunction)

~~In extreme circumstances, District administrators may seek a court order (called a “Honig Injunction”) to remove a special education student from school or the current placement at any time. Educational services [FAPE] shall not cease during an injunction.~~

If the LEA ~~district~~ believes that a student is too dangerous to remain in the student’s current placement, the LEA ~~district~~ may seek a court order (commonly called a Honig injunction) changing the student's placement or barring the student from attending school. The LEA ~~district~~ may seek a Honig injunction in lieu of requesting an IAES from a hearing officer. To receive a Honig injunction, an LEA ~~district~~ and its attorney need the following two critical items:

1. In-depth documentation establishing the serious danger posed by the student—not only documentation of the action causing the request for the injunction, but also documentation of the student's previous actions; and
2. Documentation of the actions taken by the school to prevent problem behavior, such as implementing a functional behavioral assessment, behavioral intervention plans, safety plans, and positive behavioral interventions and supports and other strategies.

If a Honig injunction is granted, the student must receive a FAPE, including services necessary to enable the student to participate in the general curriculum and progress toward meeting the student's IEP goals. Courts have given schools broad discretion in selecting the setting in which the services will be provided.

See Legal Citations for more information.

C. Transfer of Discipline Records

Section 33-209, Idaho Code, requires that whenever a student transfers to a new school and a school record contains information concerning violent or disruptive behavior or disciplinary action involving the student, this information shall be included in the transfer of records to the new school. The transmission of the student’s record shall include ~~both~~ the student’s current IEP, including the FBA; ~~and~~ BIP, and any current or previous disciplinary action taken. This information will be contained in a sealed envelope marked to indicate the confidential nature of the contents and addressed to the principal or other administrative officer of the school.

When the LEA ~~district~~ initiates disciplinary proceedings applicable to all students, the special education and disciplinary records of students with disabilities shall be given to authorized LEA ~~district~~ personnel for their consideration in making the final determination regarding the disciplinary action.

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CHAPTER ~~11~~12: PROCEDURAL SAFEGUARDS

~~This chapter reflects changes in procedural safeguards as a result of the IDEA.~~

Section 1. Procedural Safeguards Notice

~~A parent/adult student has specific procedural safeguards given to him or her by the IDEA and state law.~~ The IDEA provides specific procedural safeguards to the parent/adult student. The Idaho Department of Education has developed and made available a document known as the *Procedural Safeguards Notice*. ~~Each district has a document titled *Procedural Safeguards Notice* that is provided to parents/adult students~~ which contains a full explanation of ~~the~~ special education rights. The *Procedural Safeguards Notice* ~~shall include~~ includes a full explanation of the procedural safeguards, ~~written in the native language of the parents (unless it clearly is not feasible to do so) and~~ written in an easily understandable manner. The LEA shall provide the *Procedural Safeguards Notice* in the native language of the parents (unless it is clearly not feasible to do so).

A. Procedural Safeguards Notice Contents

The following ~~table lists~~ list names various topics contained in the *Procedural Safeguards Notice* and identifies what chapter in this Manual provides more information about each topic.

1. Parental consent
2. Written notice
3. Access to educational records
4. Independent educational evaluation (IEE)
5. The opportunity to present and resolve complaints, including:
 - a. The time period in which to make a complaint
 - b. The opportunity for the LEA to resolve the complaint
 - c. The availability of Idaho Department of Education mediation
 - d. The differences between a due process hearing complaint and state complaint
6. The student's placement during pendency of due process proceedings
7. Procedures for students who are subject to placement in an interim alternative educational setting (IAES)
8. Requirements for unilateral placement by parents of students in private schools at public expense
9. Due process hearings, including requirements for disclosure of evaluation results and recommendations
10. Civil actions, including the time period in which to file such actions
11. Attorney fees

Topic	Chapter
1. parental consent	11
2. written notice	11
3. access to educational records	11
4. independent educational evaluation (IEE)	11
5. the opportunity to present and resolve complaints, including: a. the time period in which to make a complaint b. the opportunity for the district to resolve the complaint c. the availability of SDE mediation d. the differences between a due process hearing complaint and state complaint	13
6. the student's placement during pendency of due process proceedings	13
7. procedures for students who are subject to placement in an interim alternative educational setting (IAES)	12
8. requirements for unilateral placement by parents of students in private schools at public expense	9
9. due process hearings, including requirements for disclosure of evaluation results and recommendations	13
10. civil actions, including the time period in which to file such actions	13
11. attorney fees	13

B. When the Procedural Safeguards Notice Is ~~Provided~~ Offered

The LEA ~~district will~~ shall offer ~~provide a~~ the *Procedural Safeguards Notice* that includes a full explanation of the special education rights afforded the parent/adult student: ~~only once per year; except that a copy will be given to the parent/adult student:~~

1. at least once annually
2. upon an initial referral or parent/adult student request for evaluation;
3. upon the first occurrence of a filing of a due process hearing or a state complaint in a school year;

4. when a decision is made to take a disciplinary action that constitutes a change of placement; and
5. upon request by the parent.

A The *Procedural Safeguards Notice* suitable for copying can be found in the ~~document section of this chapter~~ Appendix of this Manual, and on the Idaho Department of Education's Dispute Resolution webpage under Chapter 12 of the Idaho Special Education Manual.

Section 2. Domestic Considerations

A. Parent

1. Definition

The term "parent" means:

- a. a biological, adoptive, or foster parent of a child;
- b. a guardian (but not the state if the child is a ward of the state);
- c. an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives;
- d. an individual who is legally responsible for the child's welfare;
- e. an adult student, *if rights have transferred*; or
- f. a surrogate parent who has been appointed by the LEA ~~district~~.

2. Determining Who Has Parental Rights

In determining who has parental rights, individuals should be considered in the following order of priority:

- a. a biological *or adoptive* parent; unless a Court orders a specific person to act as the parent or to make educational decisions on behalf of the ~~child~~ student;
- b. a person who has legal documentation (guardianship, power of attorney, custody agreement) of being responsible for the student's welfare;
- c. a grandparent, stepparent, other relative, or foster parent with whom the student lives and who is acting as a parent; or
- d. a surrogate parent appointed by the LEA ~~district~~ to represent the student's interests in educational decisions.

B. Surrogate Parent

1. Definition

A “surrogate parent” is an individual assigned by the LEA ~~district~~ to assume the rights and responsibilities of a parent under the IDEA in any of the following circumstances:

- a. No parent can be identified or located for a particular student.
- b. The student is a ward of the state.
- c. The student is an unaccompanied homeless youth.

The surrogate parent has the same rights as a biological parent throughout the special ~~educational~~ education decision-making process.

2. Referral for a Surrogate Parent

Any person who is aware that a student may need a surrogate parent may make a referral for a determination as to the student’s need for a surrogate parent to the LEA’s ~~district’s~~ special education director or an appropriate LEA ~~district~~ administrator. ~~The district~~ The LEA’s special education director or an appropriate LEA administrator will appoint a surrogate parent in any of the following circumstances:

- a. A parent cannot be identified.
- b. A parent cannot be found after reasonable efforts to locate the parent.
- c. The student is a ward of the state. If a state judge has appointed a surrogate parent to oversee the care of a student who is a ward of the state, the judge-appointed surrogate may make decisions regarding the student’s education, including special education, provided he or she meets the criteria for ~~a district~~ an LEA-appointed surrogate parent.
- d. The student is a homeless youth who is unaccompanied.

The LEA ~~district~~ will make a good faith effort and maintain records of attempts to locate a parent. The LEA ~~district~~ cannot appoint a surrogate parent when the biological parent is available but chooses not to participate. When a surrogate parent is needed for a student, the LEA ~~district~~ will appoint a surrogate parent who meets the conditions set forth in item 3, below. The LEA ~~district~~ will make reasonable efforts to assign a surrogate parent within thirty (30) calendar days after it determines that the student needs a surrogate parent.

3. Criteria for Serving as a Surrogate Parent

A surrogate parent may represent the student in all matters relating to identification, evaluation, placement, and the provision of FAPE. The surrogate parent shall:

- a. Have knowledge and skills that ensure ~~effective~~ adequate representation.
- b. Have no personal or professional interest that conflicts with the interest of the student.
- c. Meet the following conditions:

- 1) is not an employee of the ~~SDE~~ Idaho Department of Education, the LEA ~~district~~, or any other agency that is involved in the education or care of the student; and
- 2) is not an employee of a nonpublic agency that provides educational care for the student.

Note: A person who otherwise qualifies to be a surrogate parent is not an employee of the LEA ~~district~~ or agency solely because he or she is paid to serve as a surrogate parent.

In the case of a student who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents until a surrogate parent can be appointed that meets all the requirements.

C. Adult Students and the Transfer of Rights

An “adult student” is a student who is at least eighteen (18) years of age to whom special education rights have transferred under the IDEA and Idaho Code.

1. Discussion of the Transfer of Rights: Not later than the student’s seventeenth (17th) birthday, the IEP team shall discuss the transfer of special education rights to the student. Special education rights will transfer from the parent to the adult student when the student turns eighteen (18) years of age unless:
 - a. the IEP team determines that the student does not have the ability to ~~make informed decisions~~ provide informed consent with respect to ~~his or her~~ the student’s educational program; or
 - b. a parent has obtained legal guardianship from a Court including the scope of educational matters.
2. Basis for Denial of Transfer: During the IEP team meeting to discuss the transfer of rights, the IEP team will use the following as the basis for any denial of the transfer:
 - a. Evaluation data, test results, written reports, teacher observation, education records, and parent input, including whether the parent intends to seek guardianship.
 - b. Answers to the following questions:
 - 1) Is the student capable of understanding ~~his or her~~ their rights?
 - 2) Is the student capable of exercising ~~his or her~~ their rights?
 - 3) Is the student capable of understanding the consequences and impact of ~~his or her~~ their decisions?
3. Following a Determination Concerning the Transfer of Rights: ~~When the student’s special education rights transfer at age eighteen (18), the parent and student will be~~

~~informed that rights have transferred.~~ The IEP shall contain a statement referring to the transfer (or not) of rights:

- a. If the team determines that there is no relevant information about the student to prohibit the transfer of rights at age eighteen (18), the student's IEP shall contain a statement that the student has been informed that special education rights will transfer to him or her. The parent retains the right to receive notices required by the IDEA **until the student's special education rights transfer at age eighteen (18).**
- b. If the IEP team determines that the student lacks the ability to provide informed consent with respect to his or her educational program, a statement will be included in the IEP indicating that the parent, or other individual if the parent is not available, will retain all special education rights after the student reaches age eighteen (18).
- ~~c. If rights have transferred, the district shall continue to provide notices to the parent, but nothing under the IDEA requires parent participation in the process.~~
4. **When the student's special education rights transfer at age eighteen (18), the parent and student will be informed that rights have transferred.**
5. Revoking a Transfer of Rights: There is nothing in federal or state law that prohibits the IEP team from changing its decision later, based on new information and input. Under state law, a parent can provide legal documentation of a student's incompetence *after* the student reaches age eighteen (18).

D. Emancipated ~~or Married~~ Minors

Idaho law **provides that a student under the age of 18 is emancipated by either marriage, by legal proceeding, or in active military service.** ~~does not provide for the emancipation of minors.~~ ~~However, minors~~ Minors who have been emancipated by a court of law in another state are considered ~~an adult~~ adults in Idaho. Emancipated minors should be able to provide the legal court document awarding them the power and capacity of an adult. A student under age eighteen (18) who claims to be an emancipated minor but is unable to provide documentation should be assigned a surrogate parent by the LEA ~~district~~ if a parent cannot be located.

Students under the age of eighteen (18) who are married ~~to an adult, eighteen (18) years or older,~~ are ~~not~~ emancipated minors in Idaho and ~~do not~~ have the power and capacity of an adult student. ~~Instead, the spouse acts as the guardian of the student regarding legal rights and responsibilities.~~

E. Ward of the State

The term "ward of the state" means a child who, as determined by the state where the child resides, is a foster child, or a ward of the state *or* is in the custody of a public child welfare agency. The term does not include a foster child who has a foster parent who meets the definition of a parent in Section 2A.

F. Child Custody

1. Definitions of Custody

The following definitions of custody are used by Idaho courts in divorce proceedings:

- a. **Joint custody** means an order awarding custody of a minor child to both parents and providing that physical custody shall be shared by the parents in such a way as to assure the child frequent or continuing contact with both parents. A court may award either joint physical custody or joint legal custody, or both. If the court has declined an order awarding joint custody, the court order shall state in the decision the reason for denial of joint custody.
- b. **Joint physical custody** means ~~by court order, awarding~~ each of the parents ~~were awarded~~ significant periods of time in which a child resides with or is under the care and supervision of each of the parents. The actual amount of time with each parent is determined by the court. ~~Generally, one of the parents is awarded primary physical custody.~~
- c. **Joint legal custody** ~~is a judicial determination means~~ that the parents or parties are required to share the decision-making rights, responsibilities, and authority relating to the health, education, and general welfare of a child. ~~In Idaho, parents have joint legal custody unless the rights of one or both parents have been terminated.~~

2. Conflicts Between Parents Who Have Joint Custody

- a. **Custody questions:** When it is known that a custody question exists that involves the relevant ~~legal-custodial~~ status of one or both parents of a student, the ~~LEA district~~ will ask the parent(s) to furnish a copy of the pertinent court order or decree, if one exists, to clarify the question at issue. School personnel will abide by the most recent court order or decree.
- b. When ~~LEA district~~ personnel receive conflicting information about custody, they will (a) initially follow the instructions of the parent with whom the child currently resides and (b) request a certified court document to clarify the custody issue.
- c. **Conflicting instructions:** When parents who have joint legal custody give conflicting instructions, the ~~LEA's district's~~ obligation is to inform the parents that any action proposed or refused will be based on the needs of the student and in accordance with the IDEA requirements. Both the ~~LEA district~~ and either parent have options under the IDEA to resolve disagreements, including ~~SDE~~ **Idaho Department of Education** Dispute Resolution processes such as mediation and due process hearings.
- d. **Access to records:** A parent who does not have primary physical custody has the same right to access records and to participate in special education decision making as does the parent with primary physical custody, unless otherwise specifically stipulated by a court. ~~Idaho Code states, "Notwithstanding any other provisions of law, access to records and information pertaining to a minor child including, but not limited to medical, dental, health, and school or educational records, shall not be denied to a parent because the parent is not the child's custodial parent." Another provision of the law allows the~~ The parent with primary physical custody ~~to may~~ request in writing that a minor child's address be deleted from any record to prohibit the other parent from learning the child's

address by having access to school records.

- e. **Parental disagreement of consent:** When parents, both with legal authority to make educational decisions for their child, disagree on the revocation of consent for special education and related services, one parent may revoke consent **in writing** for his or her child's receipt of special education and related services at any time. The **LEA district** must accept either parent's revocation of consent, and provide written notice to the parents. After revoking consent, a parent maintains the right to subsequently request an ~~initial~~ evaluation which ~~must~~ **shall** be treated as an initial evaluation and not a re-evaluation for special education. A parent who disagrees with **the other parent's** ~~another parent regarding~~ revocation of special education services is not entitled to resolve the dispute through an IDEA due process hearing.

Section 3. Informed Consent

A. Definition

Consent is written approval given by a parent/adult student who has been fully informed of and understands all information relevant to the activity for which consent is sought. The request for consent describes the activity for which consent is sought and lists the records, if any, that will be released and to whom. All information shall be provided in the native language or mode of communication of the parent/adult student, unless not feasible **to do so**. The parent/adult student shall be informed that the approval is voluntary and may be revoked at any time prior to the action. Consent is indicated by the parent's/adult student's signature.

B. Actions Requiring Consent

The following actions require the **LEA district** to obtain written consent. Some of the actions that require written consent from the parent/adult student also require prior written notice from the **LEA district**.

1. Informed written consent *and* written notice are required when:
 - a. ~~Conducting assessments as part of an initial evaluation to determine whether a student is eligible for special education.~~ Conducting an initial evaluation of the student to determine whether the student qualifies for special education as a student with a disability. Written consent is required for initial evaluation even if the team determines no new assessments are necessary.
 - b. Conducting any **new** assessment as part of a **for** reevaluation. ~~that involves more than a review of existing information. This includes any assessments that are conducted after a student has been determined eligible for special education. If a specific assessment was not listed on the Consent for Assessment form, then the district shall secure written consent again in order to conduct that particular assessment. If, after~~ written consent has been obtained, the team determines the need to assess another area, written consent shall be sought for that area. Written notice shall be provided when proposing to complete a reevaluation using only existing information. See section C.1, below.

- c. Conducting any new assessment that is not part of an initial evaluation or reevaluation process. Assessment results shall be reported in written notice.
 - d. Initially providing special education and related services to a student with a disability.
2. Informed written consent is required when:
- a. Using an individual family service plan (IFSP) instead of an IEP for students ages three (3) through five (5).
 - b. Disclosing personally identifiable information to unauthorized persons, unless provided as an exception under the Family Educational Rights and Privacy Act (FERPA) regulations. The written consent shall specify the records that may be disclosed, state the purpose of the disclosure, and identify the party to whom the disclosure will be made.
 - c. Accessing private insurance to pay for services listed in the IEP.
 - d. The LEA ~~district~~ requests to bill Medicaid (with some exceptions). The parent/adult student shall be informed of the frequency, amount, and type of services that the LEA ~~district~~ will be submitting to Medicaid for reimbursement as identified on the student's IEP.
 - e. Inviting outside agency representatives providing transition services to an IEP team meeting.
 - f. Sharing ~~of~~ information between the LEA ~~district~~ of location and the LEA ~~district~~ of residence with a parentally placed elementary or secondary student.
 - g. Requesting the ~~The~~ excusal of an IEP team member from an IEP team meeting ~~when the meeting involves a modification or discussion of the member's area of the curriculum or related services.~~

C. When Consent Is Not Required

The LEA ~~district~~ is not required to obtain informed consent when:

- 1. a review of existing ~~information data~~ is part of an evaluation ~~or a reevaluation~~. In the case of a reevaluation, written notice shall be provided when proposing to complete the reevaluation using only existing information;
- 2. tests are administered to both general and special education students in a grade or class and consent is not required for all students;
- 3. teacher or related-service-provider observations, ongoing classroom evaluation, or criterion-referenced tests are used in determining a ~~as assessments in determining the~~ student's progress toward goals, objectives, and benchmarks on the IEP;
- 4. screening to determine appropriate instruction strategies for curriculum implementation;

5. ~~a disclosure of~~ disclosing personally identifiable information to persons authorized to have access under FERPA or the Idaho Student Data Privacy Act, Section 33-133, Idaho Code; or
6. an IEP team reviews and revises a student's IEP. ~~However, the parent/adult student may file a written objection if he or she disagrees with all or part of the changes to the IEP.~~

D. Refusal to Give Consent

A parent/adult student may refuse to give written consent for an assessment, initial special education services, or the release of information that the LEA ~~district~~ believes is necessary to ensure FAPE during the reevaluation process.

If the parent ~~does not~~ refuses to provide consent for the reevaluation assessment, the LEA ~~district~~ may choose not to pursue the reevaluation. ~~requesting SDE Idaho Department of Education mediation and/or a due process hearing if~~ If the LEA ~~district~~ determines through a review of existing data, that the information does not continue to support the determination of eligibility for special education services. ~~In this case~~ the LEA ~~district~~ shall provide the parent with written notice of the proposed action to discontinue the provision of FAPE to the student based on a review of existing data.

The LEA ~~district~~ may also choose to pursue the reevaluation through ~~SDE Idaho Department of Education~~ mediation and/or by requesting a due process hearing. If the hearing officer determines that the action is necessary, and the parent/adult student does not appeal the decision, the LEA ~~district~~ may proceed with the proposed action. The LEA ~~district~~ shall provide the parent with written notice of the proposed actions.

The LEA ~~district~~ shall obtain ~~secure~~ written consent for the initial provision of special education and related services. There is no mechanism available to overturn a parent's/adult student's decision *not* to provide written consent for ~~initial evaluation or the~~ initial provision of services. In the case of an initial evaluation or initial provision of services, if a parent/adult student fails to respond to reasonable measures to gain consent or does not consent, the LEA ~~district~~ cannot be charged with failing to provide FAPE to the student and is not required to convene an IEP team meeting or ~~develop-implement~~ an IEP for special education or related services.

E. Failure to Respond to a Request for Consent Regarding Reevaluation Assessment

When a parent/adult student fails to respond to reasonable measures taken by the LEA ~~district~~ to obtain written consent to determine continued eligibility, the LEA ~~district~~ may proceed with the ~~evaluation-reevaluation~~. The LEA ~~district~~ shall ~~have-maintain~~ a record of its attempts to gain consent by documenting telephone calls made or attempted, correspondence sent, and/or visits made to the home or place of employment. Failure to respond is not the same as refusing consent for reevaluation.

F. Revoking Consent for Evaluation

Consent previously given for an evaluation or an individual assessment, the initial provision of

special education and related services, and the disclosure of information may be revoked, **but a revocation of consent is not retroactive and does not negate any action that has occurred after the consent was given and before the consent was revoked. ~~only before the action occurs.~~** If consent is revoked for evaluation, the **LEA ~~district~~** may continue to pursue the action by requesting a due process hearing. If the hearing officer determines that the action for which consent is sought is necessary, and the decision is not appealed, the **LEA ~~district~~** may proceed with the action without the written consent of the parent/adult student. Consent must be revoked in writing.

See Chapter 4 for more information about consent.

Section 4. Written Notice

A. Definition

Written notice is the act of informing a parent/adult student in writing within a reasonable amount of time **[a period of ten (10) calendar days unless exceptional circumstances apply; see Glossary for complete definition]**, before the **LEA ~~district~~** proposes to initiate or change, or refuses to initiate or change, the student's special education identification, the evaluation, educational placement, or provision of FAPE.

B. Criteria for Written Notice

1. Written notice must be provided **in within** a reasonable amount of time before implementing the proposed action.
2. Written notice shall be in language understandable to the general public. It must be provided in the native language or other mode of communication normally used by the parent/adult student unless it is clearly not feasible to do so. If the native language or other mode of communication is not a written language, the **LEA ~~district~~** shall take steps to ensure the following:
 - a. The notice is translated orally or by other means in the native language or other mode of communication.
 - b. The parent/adult student understands the content of the notice.
 - c. There is written evidence that the notice requirements of this section have been met, such as a written record in the student's special education file documenting what was discussed.

When a parent/adult student disagrees with the **LEA's ~~district's~~** written notice of a proposed or refused action, he or she can attempt to remedy the dispute using **SDE Idaho Department of Education** processes, such as IEP facilitation, mediation, formal complaint procedures, or due process hearing procedures afforded by the IDEA. **~~In addition, the parent/adult student may have the right to prevent the district from taking action by filing a written objection with the district.~~**

C. Written Notice Is Required

1. The **LEA ~~district~~** shall provide written notice **within a reasonable amount of time in the**

following circumstances:

- a. before proposing or refusing to initiate or change the following:
 - 1) identification of the student;
 - 2) any assessments for initial evaluation or reevaluation;
 - 3) educational placement; or
 - 4) the provision of FAPE.
2. ~~After the district's decision to refuse a parent's/adult student's request to initiate or change the identification, assessment, placement, or provision of FAPE.~~
 - b. If the LEA district refuses to convene an IEP team meeting at the request of a parent/adult student.
 - c. If the district LEA makes a change in the IEP after an IEP team meeting to correct a typographical error which results in a change in the services provided to a student.
 - d. When the evaluation team determines that additional assessments are not required during a reevaluation to determine whether the student continues to meet eligibility criteria, the LEA district shall provide written notice to the parent/adult student of the decision and the reasons for that decision. The parent/adult student must also be informed of his or her right to request assessments, when necessary, to determine continued eligibility.
 - e. If a parent files a due process hearing request. The LEA shall provide, ~~the district is required to give~~ written notice specific to the issues raised in the due process hearing request within ten (10) days.
 - f. If the LEA district has determined that the student is being removed for disciplinary purposes ~~which and the removal~~ constitutes a change of placement.
 - g. If the parent/adult student revokes consent for the continued provision of special education.

D. Written Notice is Not Required

The LEA district is not required to provide written notice in the following situations:

1. when reviewing existing data as part of an evaluation ~~or a reevaluation (however, the parent/adult student shall be afforded the opportunity to participate in the review of existing data);~~
2. when tests are administered to ~~both general and special education~~ all students in a grade or class;
3. when teacher or related service provider observations, ongoing classroom evaluation, or criterion-referenced tests are used ~~as assessments~~ in determining ~~the a~~ student's progress toward goals, objectives and benchmarks on the IEP; or

4. ~~if outside observation is in relation to teacher's general practices.~~ when a student is screened by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation.

E. Content of Written Notice

The content of written notice is intended to provide the parent/adult student with enough information so that ~~he or she~~ the parent/adult student is able to fully understand the ~~district~~ LEA's proposed action or refused action and to make informed decisions, if necessary.

The written notice shall include the following:

1. a description of the action proposed or refused by the ~~district~~ LEA;
2. an explanation of why the ~~district~~ LEA proposes or refuses to take the action;
3. a description of any other options the IEP team considered and the reasons why those options were rejected;
4. a description of each procedure, assessment, record, or report that the ~~district~~ LEA used as a basis for the proposed or refused action;
5. a description of any other factors relevant to the proposed or refused action;
6. a statement that the parent/adult student has special education rights and a description of how to obtain a copy of the *Procedural Safeguards Notice*; and
7. sources to contact in obtaining assistance in understanding the *Procedural Safeguards Notice*.

F. Objection to ~~District~~ LEA Proposal

If a parent/adult student disagrees with an IEP program change or placement change that is proposed by the IEP team, ~~he or she~~ the parent/adult student may file a written objection to all or part of the proposed change. ~~The district will respond as follows:~~

- ~~1. If the objection is postmarked or hand delivered within ten (10) calendar days of the date the parent/adult student received the written notice, the changes to which the parent/adult student objects cannot be implemented for fifteen (15) calendar days or as extended through mutual agreement by the district and parent/adult student while the parties work to resolve the dispute.~~
- ~~2. If a proposed change is being implemented during the ten (10) day period and an objection is received, the implementation of that change shall cease.~~
- ~~3. If an objection is made after ten (10) calendar days, the district may continue to implement the change, but the parent/adult student retains the right to exercise other procedures under the IDEA.~~

The parties may resolve a disagreement using methods such as holding additional IEP team meetings or utilizing ~~SDE~~ Idaho Department of Education Dispute Resolution processes, such as facilitation or mediation. If these attempts fail or are refused, the proposed IEP shall be implemented ~~after fifteen (15) calendar days~~ unless a due process hearing request is filed to obtain a hearing officer's decision regarding the proposed IEP, unless it is an initial IEP.

A parent's/adult student's written objection to an IEP or placement change cannot be used to prevent the ~~district~~ LEA from unilaterally placing the student in an IAES in accordance with the IDEA procedures for discipline of a student or to challenge an eligibility/identification determination.

Section 5. Confidentiality and Access to Records

The ~~district~~ LEA shall collect, use, and maintain information about a student to make appropriate decisions concerning special education and the provision of FAPE. A student's special education case manager, usually the special education teacher, should organize all relevant records specific to ~~district~~ LEA guidelines and the IDEA requirements.

The IDEA and Family Educational Rights and Privacy Act (FERPA) contain provisions to protect the confidentiality of personally identifiable information (PII) in student special education records. These statutes also provide for the right to review and inspect records.

A. Definitions

A "record" is defined as personally identifiable information directly related to the student and maintained by the ~~district~~ LEA or a party acting for the ~~district~~ LEA. A student record can be written or electronic.

1. "Personally identifiable information" means information that contains:

- a. The name of the student, the student's parent, or other family member;
- b. The address of the student;
- c. A personal identifier, such as the student's social security number or student number; or
- d. A list of personal characteristics or other information that would make it possible to identify the student with reasonable certainty.

2. The term "record" may include, but is not limited to, the following:

- a. identifying data (name, address, parents, siblings, ~~Social Security~~ social security number, list of personal characteristics making identification reasonably certain by a person in the school community);
- b. academic work completed (courses taken, transcript);
- c. level of achievement (grades, portfolios, performance assessments, scores on standardized achievement tests, etc.);
- d. attendance data;

- e. scores and protocols of standardized intelligence, aptitude, and psychological tests;
 - f. records of teachers, counselors, medical personnel, and psychologists working directly with a student if disclosed to others;
 - g. interest inventory results;
 - h. observations and verified reports of serious or recurring behavior patterns;
 - i. videotapes or audiotapes;
 - j. health data including medical assessments;
 - k. family background information;
 - l. transportation records;
 - m. student records maintained by agencies and individuals contracting with the ~~district~~ LEA; and
 - n. email, text messages, or other written notes sent regarding the student or the student's family, to the extent these communications are maintained by the ~~district~~ LEA.
3. The term "record" does not include:
- a. records of instructional, supervisory, ancillary, and administrative personnel that are kept in the sole possession of the maker of the record and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
 - b. records created by law enforcement units of schools and maintained separately for non-educational purposes; ~~and~~
 - c. employment records about a student who is employed by a school or ~~district~~ LEA. (Note: Records relating to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student are education records ~~and not excepted~~);
 - d. records on a student who is eighteen (18) years of age or older, or is attending an institution of postsecondary education, that are:
 - i. made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;
 - ii. made, maintained, or used only in connection with treatment of the student;
 - iii. disclosed only to individuals providing the treatment (Note: "~~Treatment~~" "~~treatment~~" does not include ~~remediation-remedial~~ educational activities or activities that ~~are~~ a part of the program of instruction); and
 - e. grades on peer-graded papers before they are collected and recorded by a teacher.

B. Protection of Records

The ~~district~~ LEA shall prevent unauthorized disclosure of personally identifiable information pertaining to students with disabilities. “Disclosure” is the release, transfer, or other communication of education records or of personally identifiable information contained in those records to any party, by any means, including oral, written, or electronic. ~~Districts~~-LEAs must have a policy to protect personally identifiable information from security risk resulting from unsecured data transmittal or storage.

To ensure protection of records, the ~~district~~ LEA shall do the following:

1. Obtain written and dated consent from the parent/adult student before disclosing personally identifiable information:
 - a. to unauthorized individuals; or
 - b. for any purpose except as authorized by law.
2. Designate and train a records manager to ~~assure~~-ensure security of confidential records for students with disabilities.
3. Maintain a log of requests for access to education records if the request is not from a:
 - a. ~~a~~-parent/adult student;
 - b. ~~a~~-school employee with a legitimate educational interest;
 - c. ~~a~~-party seeking designated directory information; or
 - d. ~~a~~-party receiving the records as directed by a federal jury or other subpoena ordering no one to disclose the existence of the request to access records.

This log includes the name, agency affiliation, date, and purpose for accessing the records. A log documenting denials ~~for~~ of records ~~requests~~ and partially fulfilled requests should also be maintained.

4. Maintain, for public inspection, a current listing of names and positions of employees who have access to personally identifiable information.
5. Establish procedures to ensure the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.
6. Ensure that, if any education record includes information on more than one student, a parent/adult student will only be allowed to inspect, review, or be informed about the record of the student at issue.
7. Ensure that each person collecting or using personally identifiable information receives training or instruction regarding the policies and procedures governing confidentiality. All staff members, even those who do not have access to special education records,

should be informed about what is considered appropriate and inappropriate access to and use of information within the records. The ~~district~~ LEA ~~may~~ should maintain a record of the training provided—including the name of the person or persons providing the training, dates of the training, those attending, and the subjects covered—for the purpose of documenting that new staff members have been trained as soon as possible after they have been hired.

C. Access to Records

The ~~district~~ LEA shall:

1. Annually notify the parents of all students, including students with disabilities currently in attendance, of their rights under FERPA. The notice shall include all of the following:
 - a. procedures for exercising the right to inspect and review education records;
 - b. procedures for requesting amendment of records; and
 - c. a specification of criteria for determining who constitutes a school official or employee in the ~~district~~ LEA and what constitutes a legitimate educational interest.
2. Permit a parent/adult student, or his or her representative, to inspect and review any record relating to educational matters that is collected, maintained, or used by the ~~district~~ LEA. The ~~district~~ LEA will presume that a custodial or non-custodial parent has the authority to inspect and review a record relating to his or her child unless there are legal documents limiting access to those records under state law that have been provided to the ~~district~~ LEA. A minor student's address will be deleted from any record if requested in writing by a custodial parent to prohibit a non-custodial parent from learning the address simply by having access to the school records.

The ~~district~~ LEA will make records available to a parent/adult student for review:

- a. without delay but no later than forty-five (45) days after the request;
- b. before any meeting regarding an IEP;
- c. before a resolution session; and
- d. ~~not less than five (5) business days~~ before any due process hearing.

~~The district should note that test~~ If the LEA maintains test protocols that include personally identifiable information, these may be considered part of a student's educational record. Test publishers require ~~districts~~ LEAs to maintain the integrity and validity of tests. Parents or others authorized by the parent/adult student interested in a student's test results are allowed to view the student's responses to test items, but only if the information is shared in the presence of a person qualified to explain the results and meaning of the various items and data contained in the protocol.

3. Upon request, provide a parent/adult student with a list of the types of education records the school collects, maintains, or uses and where they are kept.
4. Respond to any reasonable request made by a parent/adult student for an explanation and interpretation of a record.
5. Provide a copy of education records if a parent/adult student would otherwise be unable to effectively exercise his or her right to inspect and review those records. ~~An education record may include copyrighted test protocols which include personally identifiable information.~~ A fee may be charged for the copies, ~~unless the imposition of a fee effectively prevents a parent/adult student from exercising the right to inspect and review the student's records.~~ A fee may not be charged ~~but not~~ to search for or retrieve information. The ~~district~~ LEA shall publish a schedule of fees it intends to charge.
6. Always provide a parent/adult student a copy of the IEP and any documentation of identification and eligibility.

D. Disclosures Not Requiring Consent

Consent is generally required to disclose personally identifiable information to others. However, consent is not required ~~in certain circumstances, including, but not limited to when:~~

1. A school official or employee has a legitimate educational interest to access the records. A contractor, consultant, volunteer or other party may be considered a school official if that individual performs a function for which the ~~district~~ LEA would otherwise use employees, is under the direct control of the ~~district~~ LEA regarding the use and maintenance of education records, and is subject to the same requirements regarding the use and redisclosure of personally identifiable information from education records.
2. A representative of the Federal Comptroller General, the United States Department of Education, or the ~~State~~ Idaho Department of Education (~~SDE~~) accesses records necessary for an audit or evaluation of a federal program or for enforcement or compliance with federal regulations.
3. ~~A student transfers to another school or school system in which the student intends to enroll unless a district has adopted a procedure requiring consent. However, the parent/adult student should be notified of the request for records at the last known address of the parent/adult student unless he or she initiated the request.~~ The disclosure is to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer. A reasonable attempt to notify the parent/adult student of the record disclosure at the last known address shall be made unless the disclosure was initiated by the parent/adult student, or the LEA, in its annual notification, includes a notice that records will be forwarded.
4. The disclosure is in connection with a health or safety emergency under specified FERPA

criteria.

- ~~5. The health and safety of the student or other individuals is in jeopardy because of an emergency.~~
5. The disclosure is to state and local officials and concerns the juvenile justice system's ability to effectively serve the student ~~or the ability to respond to court orders or subpoenas~~, as specified in state law. ~~The district will make a reasonable effort to notify the parent of the court order in advance of compliance, unless the subpoena specifically states that it is not to be disclosed.~~
6. The disclosure is to an ~~An~~ organization that conducts studies on behalf of education agencies or institutions under specified FERPA criteria.
7. The disclosure is in connection with an application for financial aid and is necessary to determine eligibility for the aid, the amount of the aid, conditions for the aid, or to enforce the terms and conditions of the aid ("financial aid" means a payment of funds to an individual that is conditioned on the individual's attendance at an education agency or institution).
8. The disclosure is to accrediting organizations to carry out their accrediting functions.
9. The disclosure is to the parent of an adult student who is claimed by the parent as a dependent for IRS purposes.
10. The disclosure is to comply with a judicial order or lawfully issued subpoena. The LEA must make a reasonable effort to notify the parent of the court order in advance of compliance, unless the subpoena specifically states that it is not to be disclosed.
11. The ~~district~~ LEA has designated information as "directory information" under the ~~conditions in~~ specified FERPA criteria.

E. Destruction of Records

The ~~district~~ LEA will maintain education records, including eligibility documentation and IEPs, for at least five (5) years after a student's disenrollment from the ~~district~~ LEA to demonstrate fiscal accountability and program compliance with the IDEA requirements. ~~If maintained by the LEA, test protocols containing personally identifiable information are considered education records. Assessment results shall be maintained during the period in which any report that utilizes such information is in effect. Electronic copies will be treated as the original so long as those copies adequately capture any handwritten notes and signatures.~~

~~The district shall inform a parent/adult student when personally identifiable information collected, maintained, or used is to be destroyed because the information is no longer needed to provide educational services to the student.~~

~~Electronic copies will be treated as the original so long as those copies adequately capture any handwritten notes and signatures. Test Protocols and other assessment information shall be~~

~~maintained during the period in which the report, which utilizes such information, is in effect.~~

~~Note:~~ Medicaid-related records, specifically expenditure documentation, cost allocation process, all student records related to the Medicaid billing and service delivery (e.g., data sheets, IEPs, health care plans, physician recommendations for assessments and IEP services, evaluation recommendations, documented supervision of paraprofessionals), and revenue documentation, must be kept for a period of six (6) years.

The LEA shall inform a parent/adult student when records containing personally identifiable information collected, maintained, or used is to be destroyed because the records are no longer needed to provide educational services to the student. The parent/adult student must be informed of the records containing personally identifiable information that the ~~district~~ LEA intends to destroy and that the ~~information-records~~ will be destroyed no earlier than forty-five (45) calendar days from the date of the notice. The parent/adult student must also be informed of the procedure to follow if he or she wishes to formally object to the destruction of the ~~information-records~~ and wants the records sent to him or her.

Written and electronic records of individual students are confidential. The ~~district~~ LEA will ensure the complete destruction of the records, which may include but is not limited to shredding, permanently deleting, or burning, under supervision of the staff member responsible for the records if not released to the parent/adult student. The records manager ~~should~~ shall maintain a log that documents the date of destruction or release of records.

A permanent record of the student's name, address, phone number, grades, classes attended, immunization records, test scores, attendance record, grade level, and year completed may be maintained by the ~~district~~ LEA without a time limitation. Any other personally identifiable information shall be destroyed at the request of the parent/adult former student. When informing the parent/adult student of his or her rights, the ~~district~~ LEA should remind the parent/adult student that the records might be needed for Social Security benefits or other purposes in the future.

F. Request for Amendment of Records

A parent/adult student may request that the ~~district~~ LEA amend the student's records if he or she believes that information collected, maintained, or used in the education record is inaccurate, misleading, or in violation of the privacy or other rights of the student. The ~~district~~ LEA will use the following procedure:

1. The ~~district~~ LEA, ~~within a reasonable period of time—without unnecessary delay and not to exceed~~ within forty-five (45) calendar days of receipt of the request,—must decide whether to amend the record. If the ~~district~~ LEA refuses to amend the record, the parent/adult student must be informed of the refusal and be advised of the ~~right to and procedure for requesting a district hearing under~~ opportunity for a hearing conducted by the LEA to challenge the content of the student's education records. The hearing shall follow the procedures set forth in the ~~district~~ LEA's FERPA policy. A ~~district~~ hearing conducted by an LEA is an informal hearing that does not have all the requirements of a due process hearing.

2. If an ~~district~~ LEA hearing is requested and the ~~district~~ LEA decides that the information is inaccurate, misleading, or in violation of the student's rights, the ~~district~~ LEA shall amend the record and inform the parent/adult student in writing.
3. If an ~~district~~ LEA hearing is requested and the ~~district~~ LEA decides the information is accurate and does not violate the student's rights, the ~~district~~ LEA shall inform the parent/adult student ~~that he or she may of the right to~~ place a statement in the record ~~commenting on the contested information in the record or stating why he or she disagrees with the LEA's decision, or both. This statement may comment on the information in the record or set forth the parent's/adult student's reasons for disagreeing with the district.~~ Any statement placed with a record ~~must~~ shall accompany the record for as long as the ~~district~~ LEA maintains the record. If the ~~district~~ LEA discloses the record to any person, the ~~district~~ LEA shall also disclose the statement.

G. ~~District~~ LEA Hearings on Procedures for Records

Each ~~district~~ LEA ~~is required to~~ shall have a FERPA policy which includes the rights to request a hearing challenging the accuracy of records.

H. Students' Rights

When special education rights transfer to a student under the IDEA and Idaho ~~Code law~~, the FERPA rights regarding education records also transfer to the student. The ~~district~~ LEA shall inform the parent/adult student that both the IDEA and FERPA rights regarding education records transfer although FERPA gives the parent of a student who is claimed to be a dependent for IRS purposes the right to request access without the consent of the student.

Section 6. Independent Educational Evaluations

A. Definition

An independent educational evaluation (IEE) means one or more individual assessments, each completed by a qualified examiner who is not employed by the ~~district~~ LEA responsible for the education of the student in question.

B. Right to an IEE

1. A parent/adult student has the right to obtain an IEE at public expense if he or she disagrees with an evaluation obtained or conducted by the ~~district~~ LEA, ~~unless the LEA initiates a due process hearing, as discussed below.~~
2. The parent/adult student is entitled to only one IEE at public expense for each ~~district~~ LEA evaluation, ~~unless the LEA initiates a due process hearing, as discussed below.~~
3. The parent/adult student has the right to an IEE at his or her own expense at any time, and the IEP team shall consider the results ~~within a reasonable amount of time after receiving a copy of the IEE, if the IEE meets the LEA's criteria.~~
4. The parent/adult student ~~may request an IEE at public expense if he or she disagrees with the results of the evaluation provided by the LEA. because a specific area of the student's needs~~

~~wasn't assessed. is not automatically entitled to have additional assessments beyond those determined necessary by the district for an evaluation. However, if parent/adult student is interested in additional or different assessments and the district refuses to provide them and provides written notice of refusal. The parent/adult student may request a due process hearing.~~

- a. If the IEE request is to challenge the existing results of the LEA's evaluation findings, the LEA must fund the IEE or file a request for a due process hearing.
5. If the request is for additional testing that has not been completed by the LEA for an evaluation, this request is not considered a request for an IEE. It is a request for additional testing. The LEA shall consider the request and then provide written notice of its decision. Upon receiving a request for an IEE, ~~Aan district~~ LEA may initiate a due process hearing, without undue delay, to determine if the evaluation it conducted is appropriate. If the final decision of a hearing officer, or a court ~~of law~~'s decision on an appeal, is that the evaluation conducted by the ~~district~~ LEA was appropriate, the parent and/or adult student still has the right to an IEE but at his or her own expense.
6. A hearing officer may order an IEE at public expense if he or she determines that the evaluation conducted by the ~~district~~ LEA was not appropriate.

C. Procedures for Requesting an IEE

If a parent/adult student requests an IEE at public expense, the ~~district~~ LEA may ask why he or she disagrees with the evaluation obtained by the ~~district~~ LEA, but the ~~district~~ LEA cannot require an explanation ~~as a condition of providing an IEE~~. The ~~district~~ LEA shall give the parent/adult student the criteria under which an IEE can be obtained. The ~~district~~ LEA's IEE criteria shall ~~be the same criteria used by the LEA when conducting an evaluation and shall~~ include the following information:

1. the location for the evaluation;
2. the required qualifications of the examiner;
3. the eligibility requirements for the specific disability categories; and
4. reasonable cost containment criteria applicable to personnel for specified assessments to eliminate unreasonably excessive fees.

Except for the criteria listed above, the ~~district~~ LEA may not impose other conditions or timelines if doing so would be inconsistent with the parent's/adult student's right to an IEE. Upon request, a list of qualified examiners who can conduct an IEE will be provided.

A parent/adult student may request an opportunity to demonstrate that unique circumstances justify an IEE that does not fall within the ~~district~~ LEA's cost criteria. If an IEE that falls outside the ~~district~~ LEA's cost criteria is justified, that IEE will be publicly funded.

D. ~~District~~ LEA Responsibilities Following IEE Requests

1. If a parent/adult student requests an IEE at public expense, the ~~district~~ LEA shall do one of the following without ~~unnecessary~~ unreasonable delay:
 - a. Provide the ~~district's~~ LEA's IEE criteria and information about where an IEE may be obtained; and ensure that an IEE is provided at public expense; or
 - b. Request a due process hearing to show that the ~~district's~~ LEA's evaluation is appropriate. If the final hearing decision is that the ~~district's~~ LEA's evaluation is appropriate, the parent/adult student may pursue an IEE, but at his or her own expense.
2. If a parent/adult student asks the ~~district~~ LEA to pay for an IEE that has already been obtained, the ~~district~~ LEA shall pay for the IEE if it meets the criteria for publicly funded IEEs unless the LEA initiates a due process hearing. If the ~~district~~ LEA believes that its evaluation was appropriate, but agrees to pay for the IEE, the ~~district~~ LEA should state this in writing within the same document in which it agrees to pay. The ~~district~~ LEA ~~can~~ may also request ~~SDE~~ Idaho Department of Education mediation.

E. Consideration of the IEE Results

If a parent/adult student obtains an IEE and makes that evaluation available to the ~~district~~ LEA, the results must be considered by the ~~district~~ LEA in any decision made with respect to the provision of FAPE. The results may also be presented as evidence at a hearing regarding the student. ~~This is true regardless of whether the IEE is at the expense of the parent/adult student or district.~~

The results of an IEE cannot be the sole determining factor for eligibility. The evaluation team has the responsibility to use the LEA's ~~existing~~ evaluation results and other existing evaluation data in addition to the IEE to determine whether a student has or continues to have a disability under the IDEA.

~~Part B~~ Procedural Safeguards Notice~~Revised: June 2016~~

Dear Parent,

This document provides you with the required notice of the procedural safeguards available under the Individuals with Disabilities Education Act (IDEA) and U.S. Department of Education regulations. The IDEA, the Federal law concerning the education of students with disabilities, requires schools to provide the parent(s) of a child with a disability a notice containing a full explanation of the procedural safeguards available. A copy of this notice must be given only one time per school year, except that a copy must also be given:

- (1) Upon initial referral or your request for evaluation;
- (2) Upon receipt of your first State complaint and upon receipt of your first due process complaint in a school year;
- (3) When a decision is made to take a disciplinary action against your child that constitutes a change of placement; and
- (4) Upon your request.

~~Please contact the school district for more information on these rights.~~

~~For further explanation you may also contact:~~

~~Idaho Special Education Dispute Resolution, State Dept. of Education~~

~~P.O. Box 83720~~

~~Boise, ID 83720-0027~~

~~Phone: (208) 332-6914 Toll-free: (800) 432-4601 V/TT: (800) 377-3529~~

~~Fax: (208) 334-2228~~

~~Web: www.sde.idaho.gov~~

~~For further assistance in matters relating to dispute resolution, you may contact:~~

~~**DisAbility Rights Idaho
Boise Office**~~

~~4477 Emerald Street,
Suite B-100~~

~~Boise, ID 83706-2066~~

~~Phone: (208) 336-5353~~

~~Toll-free: (800) 632-5125~~

~~Fax: (208) 336-5396~~

~~Web: disabilityrightsidaho.org~~

~~**DisAbility Rights Idaho
Pocatello Office**~~

~~1246 Yellowstone Ave
Suite A-3~~

~~Pocatello, ID 83201-4374~~

~~Phone: (208) 232-0922~~

~~Toll-free: (866) 309-1589~~

~~Fax: (208) 232-0938~~

~~Web: disabilityrightsidaho.org~~

~~**Idaho Parents Unlimited, Inc.**~~

~~**(IPUL)**~~

~~4619 Emerald, Ste. E~~

~~Boise, ID 83702~~

~~Phone: (208) 342-5884~~

~~Toll-free: (800) 242-IPUL (4785)~~

~~V/TT: (208) 342-5884~~

~~Fax: (208) 342-1408~~

~~Web: ipulidaho.org~~

~~**Idaho Legal Aid Services**~~

~~1447 Tyrell Lane~~

~~Boise, ID 83706~~

~~Phone: (208) 336-8980~~

~~Fax: (208) 342-2564~~

~~Web: idaholegalaid.org~~

~~**Idaho State Bar Association**~~

~~P.O. Box 895~~

~~Boise, ID 83701~~

~~Phone: (208) 334-4500~~

~~Fax: (208) 334-4515~~

~~Web: isb.idaho.gov~~

~~**Wrightslaw Idaho Yellow Pages for Kids**~~

~~Web: yellowpagesforkids.com/help/id.htm~~

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GENERAL INFORMATION

PRIOR WRITTEN NOTICE

34 CFR §300.503

Notice

Your school district must give you written notice (provide you certain information in writing), within a reasonable amount of time before it:

1. ~~Proposes to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of a free appropriate public education (FAPE) to your child; or~~
2. ~~Refuses to initiate or to change the identification, evaluation, educational placement of your child, or the provision of FAPE to your child.~~

Content of notice

The written notice must:

1. ~~Describe the action that your school district proposes or refuses to take;~~
2. ~~Explain why your school district is proposing or refusing to take the action;~~
3. ~~Describe each evaluation procedure, assessment, record, or report your school district used in deciding to propose or refuse the action;~~
4. ~~Include a statement that you have protections under the procedural safeguards provisions in Part B of IDEA;~~
5. ~~Tell you how you can obtain a description of the procedural safeguards if the action that your school district is proposing or refusing is not an initial referral for evaluation;~~
6. ~~Include resources for you to contact for help in understanding Part B of IDEA;~~
7. ~~Describe any other options that your child's individualized education program (IEP) Team considered and the reasons why those options were rejected; and~~
8. ~~Provide a description of other reasons why your school district proposed or refused the action.~~

Notice in understandable language

The notice must be:

- ~~1. Written in language understandable to the general public; and~~
- ~~2. Provided in your native language or other mode of communication you use, unless it is clearly not feasible to do so.~~

~~If your native language or other mode of communication is not a written language, your school district must ensure that:~~

- ~~1. The notice is translated for you orally or by other means in your native language or other mode of communication;~~
- ~~2. You understand the content of the notice; and~~
- ~~3. There is written evidence that the requirements in paragraphs 1 and 2 have been met.~~

NATIVE LANGUAGE

34 CFR §300.29

~~Native language, when used regarding an individual who has limited English proficiency, means the following:~~

- ~~1. The language normally used by that person, or, in the case of a child, the language normally used by the child's parents;~~
- ~~2. In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment.~~

~~For a person with deafness or blindness, or for a person with no written language, the mode of communication is what the person normally uses (such as sign language, Braille, or oral communication).~~

ELECTRONIC MAIL

34 CFR §300.505

~~If your school district offers parents the choice of receiving documents by e-mail, you may choose to receive the following by e-mail:~~

- ~~1. Prior written notice;~~
- ~~2. Procedural safeguards notice; and~~
- ~~3. Notices related to a due process complaint.~~

~~PARENTAL CONSENT DEFINITION~~

~~34 CFR §300.9~~

~~Consent~~

~~Consent means:~~

- ~~1. You have been fully informed in your native language or other mode of communication (such as sign language, Braille, or oral communication) of all information about the action for which you are giving consent.~~
- ~~2. You understand and agree in writing to that action, and the consent describes that action and lists the records (if any) that will be released and to whom; and~~
- ~~3. You understand that the consent is voluntary on your part and that you may withdraw your consent at any time.~~

~~If you wish to revoke (cancel) your consent after your child has begun receiving special education and related services, you must do so in writing. Your withdrawal of consent does not negate (undo) an action that has occurred after you gave your consent but before you withdrew it. In addition, the school district is not required to amend (change) your child's education records to remove any references that your child received special education and related services after your withdrawal of consent.~~

~~PARENTAL CONSENT~~

~~34 CFR §300.300~~

~~Consent for initial evaluation~~

~~Your school district cannot conduct an initial evaluation of your child to determine whether your child is eligible under Part B of IDEA to receive special education and related services without first providing you with prior written notice of the proposed action and obtaining your consent as described under the headings ***Prior Written Notice*** and ***Parental Consent***.~~

~~Your school district must make reasonable efforts to obtain your informed consent for an initial evaluation to decide whether your child is a child with a disability.~~

~~Your consent for initial evaluation does not mean that you have also given your consent for the school district to start providing special education and related services to your child.~~

~~Your school district may not use your refusal to consent to one service or activity related to the initial evaluation as a basis for denying you or your child any other service, benefit, or activity, unless another Part B requirement requires the school district to do so.~~

~~If your child is enrolled in public school or you are seeking to enroll your child in a public school and you have refused to provide consent or failed to respond to a request to provide consent~~

~~for an initial evaluation, your school district may, but is not required to, seek to conduct an initial evaluation of your child by using the IDEA's mediation or due process complaint, resolution meeting, and impartial due process hearing procedures. Your school district will not violate its obligations to locate, identify and evaluate your child if it does not pursue an evaluation of your child in these circumstances.~~

Special rules for initial evaluation of wards of the State

~~If a child is a ward of the State and is not living with his or her parent —~~

~~The school district does not need consent from the parent for an initial evaluation to determine if the child is a child with a disability if:~~

- ~~1. Despite reasonable efforts to do so, the school district cannot find the child's parent;~~
- ~~2. The rights of the parents have been terminated in accordance with State law; or~~
- ~~3. A judge has assigned the right to make educational decisions to an individual other than the parent and that individual has provided consent for an initial evaluation.~~

~~Ward of the State, as used in IDEA, means a child who, as determined by the State where the child lives, is:~~

- ~~1. A foster child;~~
- ~~2. Considered a ward of the State under State law; or~~
- ~~3. In the custody of a public child welfare agency.~~

~~There is one exception that you should know about. Ward of the State does not include a foster child who has a foster parent who meets the definition of a parent as used in IDEA.~~

Parental consent for services

~~Your school district must obtain your informed consent before providing special education and related services to your child for the first time.~~

~~The school district must make reasonable efforts to obtain your informed consent before providing special education and related services to your child for the first time.~~

~~If you do not respond to a request to provide your consent for your child to receive special education and related services for the first time, or if you refuse to give such consent or later revoke (cancel) your consent in writing, your school district may not use the procedural safeguards (i.e., mediation, due process complaint, resolution meeting, or an impartial due process hearing) in order to obtain agreement or a ruling that the special education and related services (recommended by your child's IEP team) may be provided to your child without your consent.~~

~~If you refuse to give your consent for your child to receive special education and related services for the first time, or if you do not respond to a request to provide such consent or later revoke (cancel) your consent in writing and the school district does not provide your child with~~

~~the special education and related services for which it sought your consent, your school district:~~

- ~~1. Is not in violation of the requirement to make a free appropriate public education (FAPE) available to your child for its failure to provide those services to your child; **and**~~
- ~~2. Is not required to have an individualized education program (IEP) meeting or develop an IEP for your child for the special education and related services for which your consent was requested.~~

~~If you revoke (cancel) your consent in writing at any point after your child is first provided special education and related services, then the school district may not continue to provide such services, but must provide you with prior written notice, as described under the heading **Prior Written Notice**, before discontinuing those services.~~

Parent's Right to Object

~~Once you consent to the initial start of services, the school district is not required to obtain your consent to make changes to the IEP. However, if you do not want the school district to implement the changes to the IEP, you must submit your objections in writing. Your written objections must either be postmarked or hand-delivered to the school district within 10 days of receiving the written notice of the changes.~~

IDAPA 8.02.03.109.05a

Parental consent for reevaluations

~~Your school district must obtain your informed consent before it reevaluates your child, unless your school district can demonstrate that:~~

- ~~1. It took reasonable steps to obtain your consent for your child's reevaluation; **and**~~
- ~~2. You did not respond.~~

~~If you refuse to consent to your child's reevaluation, the school district may, but is not required to, pursue your child's reevaluation by using the mediation, due process complaint, resolution meeting, and impartial due process hearing procedures to seek to override your refusal to consent to your child's reevaluation. As with initial evaluations, your school district does not violate its obligations under Part B of IDEA if it declines to pursue the reevaluation in this manner.~~

Documentation of reasonable efforts to obtain parental consent

~~Your school must maintain documentation of reasonable efforts to obtain your consent for initial evaluations, to provide special education and related services for the first time, for a reevaluation, and to locate parents of wards of the State for initial evaluations. The documentation must include a record of the school district's attempts in these areas, such as:~~

- ~~1. Detailed records of telephone calls made or attempted and the results of those calls;~~

- ~~2. Copies of correspondence sent to you and any responses received; and~~
- ~~3. Detailed records of visits made to your home or place of employment and the results of those visits.~~

Other consent requirements

~~Your consent is not required before your school district may:~~

- ~~1. Review existing data as part of your child's evaluation or a reevaluation; or~~
- ~~2. Give your child a test or other evaluation that is given to all children unless, before that test or evaluation, consent is required from parents of all children.~~

~~The school district must develop and implement procedures to ensure that your refusal to consent to any of these other services and activities does not result in a failure to provide your child with a free appropriate public education (FAPE). Also, your school district may not use your refusal to consent to one of these services or activities as a basis for denying any other service, benefit, or activity, unless another Part B requirement requires the school district to do so.~~

~~If you have enrolled your child in a private school at your own expense or if you are home schooling your child, and you do not provide your consent for your child's initial evaluation or your child's reevaluation, or you fail to respond to a request to provide your consent, the school district may not use its dispute resolution procedures (i.e., mediation, due process complaint, resolution meeting, or an impartial due process hearing) and is not required to consider your child as eligible to receive equitable services (services made available to some parentally placed private school children with disabilities).~~

INDEPENDENT EDUCATIONAL EVALUATIONS

34 CFR §300.502

General

~~As described below, you have the right to obtain an independent educational evaluation (IEE) of your child if you disagree with the evaluation of your child that was obtained by your school district.~~

~~If you request an independent educational evaluation, the school district must provide you with information about where you may obtain an independent educational evaluation and about the school district's criteria that apply to independent educational evaluations.~~

Definitions

~~*Independent educational evaluation* means an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of your child.~~

~~Public expense means that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to you, consistent with the provisions of Part B of IDEA, which allow each State to use whatever State, local, Federal, and private sources of support are available in the State to meet the requirements of Part B of the Act.~~

~~Right to evaluation at public expense~~

~~You have the right to an independent educational evaluation of your child at public expense if you disagree with an evaluation of your child obtained by your school district, subject to the following conditions:~~

- ~~1. If you request an independent educational evaluation of your child at public expense, your school district must, without unnecessary delay, either: (a) File a due process complaint to request a hearing to show that its evaluation of your child is appropriate; or (b) Provide an independent educational evaluation at public expense, unless the school district demonstrates in a hearing that the evaluation of your child that you obtained did not meet the school district's criteria.~~
- ~~2. If your school district requests a hearing and the final decision is that your school district's evaluation of your child is appropriate, you still have the right to an independent educational evaluation, but not at public expense.~~
- ~~3. If you request an independent educational evaluation of your child, the school district may ask why you object to the evaluation of your child obtained by your school district. However, your school district may not require an explanation and may not unreasonably delay either providing the independent educational evaluation of your child at public expense or filing a due process complaint to request a due process hearing to defend the school district's evaluation of your child.~~

~~You are entitled to only one independent educational evaluation of your child at public expense each time your school district conducts an evaluation of your child with which you disagree.~~

~~Parent initiated evaluations~~

~~If you obtain an independent educational evaluation of your child at public expense or you share with the school district an evaluation of your child that you obtained at private expense:~~

- ~~1. Your school district must consider the results of the evaluation of your child, if it meets the school district's criteria for independent educational evaluations, in any decision made with respect to the provision of a free appropriate public education (FAPE) to your child; and~~
- ~~2. You or your school district may present the evaluation as evidence at a due process hearing regarding your child.~~

~~Requests for evaluations by hearing officers~~

~~If a hearing officer requests an independent educational evaluation of your child as part of a due process hearing, the cost of the evaluation must be at public expense.~~

~~School district criteria~~

~~If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the school district uses when it initiates an evaluation (to the extent those criteria are consistent with your right to an independent educational evaluation).~~

~~Except for the criteria described above, a school district may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.~~

CONFIDENTIALITY OF INFORMATION

~~34 CFR §300.611~~

~~As used under the heading Confidentiality of Information:~~

~~*Destruction* means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.~~

~~*Education records* means the type of records covered under the definition of “education records” in 34 CFR Part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)).~~

~~*Participating agency* means any school district, agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of IDEA.~~

PERSONALLY IDENTIFIABLE

~~34 CFR §300.32~~

~~*Personally identifiable* means information that includes:~~

~~(a) Your child's name, your name as the parent, or the name of another family member;~~

~~(b) Your child's address;~~

~~(c) A personal identifier, such as your child's social security number or student number; or~~

~~(d) A list of personal characteristics or other information that would make it possible to identify your child with reasonable certainty.~~

NOTICE TO PARENTS

34 CFR §300.612

~~The State Educational Agency must give notice that is adequate to fully inform parents about confidentiality of personally identifiable information, including:~~

- ~~1. A description of the extent to which the notice is given in the native languages of the various population groups in the State;~~
- ~~2. A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;~~
- ~~3. A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and~~
- ~~4. A description of all of the rights of parents and children regarding this information, including the rights under the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations in 34 CFR Part 99.~~

~~Before any major activity to identify, locate, or evaluate children in need of special education and related services (also known as “child find”), the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State of these activities.~~

ACCESS RIGHTS

34 CFR §300.613

~~The participating agency must permit you to inspect and review any education records relating to your child that are collected, maintained, or used by your school district under Part B of IDEA. The participating agency must comply with your request to inspect and review any education records on your child without unnecessary delay and before any meeting regarding an individualized education program (IEP), or any impartial due process hearing (including a resolution meeting or a hearing regarding discipline), and in no case more than 45 calendar days after you have made a request.~~

~~Your right to inspect and review education records includes:~~

- ~~1. Your right to a response from the participating agency to your reasonable requests for explanations and interpretations of the records;~~
- ~~2. Your right to request that the participating agency provide copies of the records if you cannot effectively inspect and review the records unless you receive those copies; and~~
- ~~3. Your right to have your representative inspect and review the records.~~

~~The participating agency may presume that you have authority to inspect and review records relating to your child unless advised that you do not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.~~

~~RECORD OF ACCESS~~

~~34 CFR §300.614~~

~~Each participating agency must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of IDEA (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.~~

~~RECORDS ON MORE THAN ONE CHILD~~

~~34 CFR §300.615~~

~~If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.~~

~~LIST OF TYPES AND LOCATIONS OF INFORMATION~~

~~34 CFR §300.616~~

~~On request, each participating agency must provide you with a list of the types and locations of education records collected, maintained, or used by the agency.~~

~~FEES~~

~~34 CFR §300.617~~

~~Each participating agency may charge a fee for copies of records that are made for you under Part B of IDEA, if the fee does not effectively prevent you from exercising your right to inspect and review those records.~~

~~A participating agency may not charge a fee to search for or to retrieve information under Part B of IDEA.~~

~~AMENDMENT OF RECORDS AT PARENT'S REQUEST~~

~~34 CFR §300.618~~

~~If you believe that information in the education records regarding your child collected, maintained, or used under Part B of IDEA is inaccurate, misleading, or violates the privacy or other rights of your child, you may request the participating agency that maintains the information to change the information.~~

~~The participating agency must decide whether to change the information in accordance with your request within a reasonable period of time of receipt of your request.~~

~~If the participating agency refuses to change the information in accordance with your request, it must inform you of the refusal and advise you of your right to a hearing as described under the heading *Opportunity For a Hearing*.~~

OPPORTUNITY FOR A HEARING

34 CFR §300.619

~~The participating agency must, on request, provide you an opportunity for a hearing to challenge information in education records regarding your child to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child.~~

HEARING PROCEDURES

34 CFR §300.621

~~A hearing to challenge information in education records must be conducted according to the procedures for such hearings under the Family Educational Rights and Privacy Act (FERPA).~~

RESULT OF HEARING

34 CFR §300.620

~~If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of your child, it must change the information accordingly and inform you in writing.~~

~~If, as a result of the hearing, the participating agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child, it must inform you of your right to place in the records that it maintains on your child a statement commenting on the information or providing any reasons you disagree with the decision of the participating agency.~~

~~Such an explanation placed in the records of your child must:~~

- ~~1. Be maintained by the participating agency as part of the records of your child as long as the record or contested portion is maintained by the participating agency; and~~

- ~~2. If the participating agency discloses the records of your child or the challenged information to any party, the explanation must also be disclosed to that party.~~

~~CONSENT FOR DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION~~

~~34 CFR §300.622~~

~~Unless the information is contained in education records, and the disclosure is authorized without parental consent under the Family Educational Rights and Privacy Act (FERPA), your consent must be obtained before personally identifiable information is disclosed to parties other than officials of participating agencies. Except under the circumstances specified below, your consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of Part B of IDEA.~~

~~Your consent, or consent of an eligible child who has reached the age of majority under State law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.~~

~~If your child is in, or is going to go to, a private school that is not located in the same school district you reside in, your consent must be obtained before any personally identifiable information about your child is released between officials in the school district where the private school is located and officials in the school district where you reside.~~

~~SAFEGUARDS~~

~~34 CFR §300.623~~

~~Each participating agency must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.~~

~~One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.~~

~~All persons collecting or using personally identifiable information must receive training or instruction regarding your State's policies and procedures regarding confidentiality under Part B of IDEA and the Family Educational Rights and Privacy Act (FERPA).~~

~~Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.~~

~~DESTRUCTION OF INFORMATION~~

~~34 CFR §300.624~~

~~Your school district must inform you when personally identifiable information collected,~~

~~maintained, or used under Part B of IDEA is no longer needed to provide educational services to your child.~~

~~The information must be destroyed at your request. However, a permanent record of your child's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.~~

STATE COMPLAINT PROCEDURES

DIFFERENCES BETWEEN THE PROCEDURES FOR DUE PROCESS COMPLAINTS AND HEARINGS AND FOR STATE COMPLAINTS

The regulations for Part B of IDEA set forth separate procedures for State complaints and for due process complaints and hearings. As explained below, any individual or organization may file a State complaint alleging a violation of any Part B requirement by a school district, the State Educational Agency, or any other public agency. Only you or a school district may file a due process complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation, or educational placement of a child with a disability, or the provision of a free appropriate public education (FAPE) to the child. While staff of the State Educational Agency generally must resolve a State complaint within a 60-calendar-day timeline, unless the timeline is properly extended, an impartial hearing officer must hear a due process complaint (if not resolved through a resolution meeting or through mediation) and issue a written decision within 45-calendar-days after the end of the resolution period, as described in this document under the heading Resolution Process, unless the hearing officer grants a specific extension of the timeline at your request or the school district's request. The State complaint and due process complaint, resolution and hearing procedures are described more fully below. The State Educational Agency must develop model forms to help you file a due process complaint and help you or other parties to file a State complaint as described under the heading **Model Forms**.

ADOPTION OF STATE COMPLAINT PROCEDURES

34 CFR §300.151

General

Each State Educational Agency must have written procedures for:

1. Resolving any complaint, including a complaint filed by an organization or individual from another State;
2. The filing of a complaint with the State Educational Agency;
3. Widely disseminating the State complaint procedures to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities.

Remedies for denial of appropriate services

In resolving a State complaint in which the State Educational Agency has found a failure to provide appropriate services, the State Educational Agency must address:

~~The failure to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); and Appropriate future provision of services for all children with disabilities.~~

~~MINIMUM STATE COMPLAINT PROCEDURES~~

~~34 CFR §300.152~~

~~Time limit; minimum procedures~~

~~Each State Educational Agency must include in its State complaint procedures a time limit of 60 calendar days after a complaint is filed to:~~

- ~~1. Carry out an independent on-site investigation, if the State Educational Agency determines that an investigation is necessary;~~
- ~~2. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;~~
- ~~3. Provide the school district or other public agency with the opportunity to respond to the complaint, including, at a minimum: (a) at the option of the agency, a proposal to resolve the complaint; and (b) an opportunity for a parent who has filed a complaint and the agency to agree voluntarily to engage in mediation;~~
- ~~4. Review all relevant information and make an independent determination as to whether the school district or other public agency is violating a requirement of Part B of IDEA; and~~
- ~~5. Issue a written decision to the complainant that addresses each allegation in the complaint and contains: (a) findings of fact and conclusions; and (b) the reasons for the State Educational Agency's final decision.~~

~~Time extension; final decision; implementation~~

~~The State Educational Agency's procedures described above also must:~~

- ~~1. Permit an extension of the 60-calendar-day time limit only if: (a) exceptional circumstances exist with respect to a particular State complaint; or (b) you and the school district or other public agency involved voluntarily agree to extend the time to resolve the matter through mediation or alternative means of dispute resolution, if available in the State.~~
- ~~2. Include procedures for effective implementation of the State Educational Agency's final decision, if needed, including: (a) technical assistance activities; (b) negotiations; and (c) corrective actions to achieve compliance.~~

~~State complaints and due process hearings~~

~~If a written State complaint is received that is also the subject of a due process hearing as described under the heading **Filing a Due Process Complaint**, or the State complaint contains multiple issues of which one or more are part of such a hearing, the State must set aside any part of the State complaint that is being addressed in the due process hearing until the hearing is over. Any issue in the State complaint that is not a part of the due process hearing must be resolved using the time limit and procedures described above.~~

~~If an issue raised in a State complaint has previously been decided in a due process hearing involving the same parties (for example, you and the school district), then the due process hearing decision is binding on that issue and the State Educational Agency must inform the complainant that the decision is binding.~~

~~A complaint alleging a school district's or other public agency's failure to implement a due process hearing decision must be resolved by the State Educational Agency.~~

FILING A STATE COMPLAINT

34 CFR §300.153

~~An organization or individual may file a signed written State complaint under the procedures described above.~~

~~The State complaint must include:~~

~~A statement that a school district or other public agency has violated a requirement of Part B of IDEA or its implementing regulations in 34 CFR Part 300;~~

~~The facts on which the statement is based;~~

~~The signature and contact information for the party filing the complaint; and~~

~~If alleging violations regarding a specific child:~~

- ~~(a) The name of the child and address of the residence of the child;~~
- ~~(b) The name of the school the child is attending;~~
- ~~(c) In the case of a homeless child or youth, available contact information for the child, and the name of the school the child is attending;~~
- ~~(d) A description of the nature of the problem of the child, including facts relating to the problem; and~~
- ~~(e) A proposed resolution of the problem to the extent known and available to the party filing the complaint at the time the complaint is filed.~~

~~The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received as described under the heading **Adoption of State Complaint Procedures**.~~

~~The party filing the State complaint must forward a copy of the complaint to the school district~~

~~or other public agency serving the child at the same time the party files the complaint with the State Educational Agency.~~

~~DUE PROCESS COMPLAINT PROCEDURES~~

~~FILING A DUE PROCESS COMPLAINT~~

~~34 CFR §300.507~~

~~General~~

~~You or the school district may file a due process complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation or educational placement of your child, or the provision of a free appropriate public education (FAPE) to your child.~~

~~The due process complaint must allege a violation that happened not more than two years before you or the school district knew or should have known about the alleged action that forms the basis of the due process complaint.~~

~~The above timeline does not apply to you if you could not file a due process complaint within the timeline because:~~

- ~~1. The school district specifically misrepresented that it had resolved the issues identified in the complaint; or~~
- ~~2. The school district withheld information from you that it was required to provide you under Part B of IDEA.~~

~~Information for parents~~

~~The school district must inform you of any free or low-cost legal and other relevant services available in the area if you request the information, or if you or the school district file a due process complaint.~~

~~DUE PROCESS COMPLAINT~~

~~34 CFR §300.508~~

~~General~~

~~In order to request a hearing, you or the school district (or your attorney or the school district's attorney) must submit a due process complaint to the other party. That complaint must contain all of the content listed below and must be kept confidential.~~

~~Whoever files the complaint must also provide the State Educational Agency with a copy of the complaint.~~

Content of the complaint

The due process complaint must include:

- ~~1. The name of the child;~~
- ~~2. The address of the child's residence;~~
- ~~3. The name of the child's school;~~
- ~~4. If the child is a homeless child or youth, the child's contact information and the name of the child's school;~~
- ~~5. A description of the nature of the problem of the child relating to the proposed or refused action, including facts relating to the problem; and~~
- ~~6. A proposed resolution of the problem to the extent known and available to the complaining party (you or the school district) at the time.~~

Notice required before a hearing on a due process complaint

~~You or the school district may not have a due process hearing until you or the school district (or your attorney or the school district's attorney) files a due process complaint that includes the information listed above.~~

Sufficiency of complaint

~~In order for a due process complaint to go forward, it must be considered sufficient. The due process complaint will be considered sufficient (to have met the content requirements above) unless the party receiving the due process complaint (you or the school district) notifies the hearing officer and the other party in writing, within 15 calendar days of receiving the complaint, that the receiving party believes that the due process complaint does not meet the requirements listed above.~~

~~Within five calendar days of receiving the notification that the receiving party (you or the school district) considers a due process complaint insufficient, the hearing officer must decide if the due process complaint meets the requirements listed above, and notify you and the school district in writing immediately.~~

Complaint amendment

~~You or the school district may make changes to the complaint only if:~~

- ~~1. The other party approves of the changes in writing and is given the chance to resolve the due process complaint through a resolution meeting, described under the heading **Resolution Process; or**~~
- ~~2. By no later than five days before the due process hearing begins, the hearing officer grants permission for the changes.~~

~~If the complaining party (you or the school district) makes changes to the due process~~

~~complaint, the timelines for the resolution meeting (within 15 calendar days of receiving the complaint) and the time period for resolution (within 30 calendar days of receiving the complaint) start again on the date the amended complaint is filed.~~

~~Local educational agency (LEA) or school district response to a due process complaint~~

~~If the school district has not sent a prior written notice to you, as described under the heading **Prior Written Notice**, regarding the subject matter contained in your due process complaint, the school district must, within 10 calendar days of receiving the due process complaint, send to you a response that includes:~~

- ~~1. An explanation of why the school district proposed or refused to take the action raised in the due process complaint;~~
- ~~2. A description of other options that your child's individualized education program (IEP) Team considered and the reasons why those options were rejected;~~
- ~~3. A description of each evaluation procedure, assessment, record, or report the school district used as the basis for the proposed or refused action; and~~
- ~~4. A description of the other factors that are relevant to the school district's proposed or refused action.~~

~~Providing the information in items 1-4 above does not prevent the school district from asserting that your due process complaint was insufficient.~~

~~Other party response to a due process complaint~~

~~Except as stated under the sub-heading immediately above, **Local educational agency (LEA) or school district response to a due process complaint**, the party receiving a due process complaint must, within 10 calendar days of receiving the complaint, send the other party a response that specifically addresses the issues in the complaint.~~

MODEL FORMS

34 CFR §300.509

~~The State Educational Agency must develop model forms to help you to file a due process complaint and to help you and other parties to file a State complaint. However, your State or the school district may not require the use of these model forms. In fact, you can use the model form or another appropriate form, so long as it contains the required information for filing a due process complaint or a State complaint.~~

MEDIATION

34 CFR §300.506

General

~~The school district must develop procedures that make mediation available to allow you and the school district to resolve disagreements involving any matter under Part B of IDEA, including matters arising prior to the filing of a due process complaint. Thus, mediation is available to resolve disputes under Part B of IDEA, whether or not you have filed a due process complaint to request a due process hearing as described under the heading **Filing a Due Process Complaint**.~~

Requirements

~~The procedures must ensure that the mediation process:~~

- ~~1. Is voluntary on your part and the school district's part;~~
- ~~2. Is not used to deny or delay your right to a due process hearing, or to deny any other rights provided under Part B of IDEA; and~~
- ~~3. Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.~~

~~The school district may develop procedures that offer parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to you, with a disinterested party:~~

- ~~1. Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in the State; and~~
- ~~2. Who would explain the benefits of, and encourage the use of, the mediation process to you.~~

~~The State must keep a list of people who are qualified mediators and know the laws and regulations relating to the provision of special education and related services. The State Educational Agency must select mediators on a random, rotational, or other impartial basis.~~

~~The State is responsible for the costs of the mediation process, including the costs of meetings.~~

~~Each meeting in the mediation process must be scheduled in a timely manner and held at a place that is convenient for you and the school district.~~

~~If you and the school district resolve a dispute through the mediation process, both parties must enter into a legally binding agreement that sets forth the resolution and:~~

- ~~1. States that all discussions that happened during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding (court case); and~~
- ~~2. Is signed by both you and a representative of the school district who has the authority to bind the school district.~~

~~A written, signed mediation agreement is enforceable in any State court of competent jurisdiction (a court that has the authority under State law to hear this type of case) or in a~~

~~district court of the United States.~~

~~Discussions that happened during the mediation process must be confidential. They cannot be used as evidence in any future due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under Part B of IDEA.~~

~~Impartiality of mediator~~

~~The mediator:~~

- ~~1. May not be an employee of the State Educational Agency or the school district that is involved in the education or care of your child; and~~
- ~~2. Must not have a personal or professional interest which conflicts with the mediator's objectivity.~~

~~A person who otherwise qualifies as a mediator is not an employee of a school district or State agency solely because he or she is paid by the agency or school district to serve as a mediator.~~

~~RESOLUTION PROCESS~~

~~34 CFR §300.510~~

~~Resolution meeting~~

~~Within 15 calendar days of receiving notice of your due process complaint, and before the due process hearing begins, the school district must convene a meeting with you and the relevant member or members of the individualized education program (IEP) Team who have specific knowledge of the facts identified in your due process complaint. The meeting:~~

- ~~1. Must include a representative of the school district who has decision-making authority on behalf of the school district; and~~
- ~~2. May not include an attorney of the school district unless you are accompanied by an attorney.~~

~~You and the school district determine the relevant members of the IEP Team to attend the meeting.~~

~~The purpose of the meeting is for you to discuss your due process complaint, and the facts that form the basis of the complaint, so that the school district has the opportunity to resolve the dispute.~~

~~The resolution meeting is not necessary if:~~

- ~~1. You and the school district agree in writing to waive the meeting; or~~
- ~~2. You and the school district agree to use the mediation process, as described under the heading *Mediation*.~~

Resolution period

~~If the school district has not resolved the due process complaint to your satisfaction within 30 calendar days of the receipt of the due process complaint (during the time period for the resolution process), the due process hearing may occur.~~

~~The 45-calendar day timeline for issuing a final due process hearing decision, as described under the heading, **Hearing Decisions**, begins at the expiration of the 30-calendar day resolution period, with certain exceptions for adjustments made to the 30-calendar day resolution period, as described below.~~

~~Except where you and the school district have both agreed to waive the resolution process or to use mediation, your failure to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held.~~

~~If after making reasonable efforts and documenting such efforts, the school district is not able to obtain your participation in the resolution meeting, the school district may, at the end of the 30-calendar day resolution period, request that a hearing officer dismiss your due process complaint. Documentation of such efforts must include a record of the school district's attempts to arrange a mutually agreed upon time and place, such as:~~

- ~~1. Detailed records of telephone calls made or attempted and the results of those calls;~~
- ~~2. Copies of correspondence sent to you and any responses received; and~~
- ~~3. Detailed records of visits made to your home or place of employment and the results of those visits.~~

~~If the school district fails to hold the resolution meeting within 15 calendar days of receiving notice of your due process complaint or fails to participate in the resolution meeting, you may ask a hearing officer to begin the 45-calendar day due process hearing timeline.~~

Adjustments to the 30-calendar day resolution period

~~If you and the school district agree in writing to waive the resolution meeting, then the 45-calendar day timeline for the due process hearing starts the next day.~~

~~After the start of mediation or the resolution meeting and before the end of the 30-calendar day resolution period, if you and the school district agree in writing that no agreement is possible, then the 45-calendar day timeline for the due process hearing starts the next day.~~

~~If you and the school district agree to use the mediation process but have not yet reached agreement, at the end of the 30-calendar day resolution period the mediation process may be continued until an agreement is reached if both parties agree to the continuation in writing. However, if either you or the school district withdraws from the mediation process during this continuation period, then the 45-calendar day timeline for the due process hearing starts the next day.~~

Written settlement agreement

~~If a resolution to the dispute is reached at the resolution meeting, you and the school district must enter into a legally binding agreement that is:~~

- ~~1. Signed by you and a representative of the school district who has the authority to bind the school district; and~~
- ~~2. Enforceable in any State court of competent jurisdiction (a State court that has authority to hear this type of case) or in a district court of the United States or by the State Educational Agency, if your State has another mechanism or procedures that permit parties to seek enforcement of resolution agreements.~~

~~Agreement review period~~

~~If you and the school district enter into an agreement as a result of a resolution meeting, either party (you or the school district) may void the agreement within 3 business days of the time that both you and the school district signed the agreement.~~

~~HEARINGS ON DUE PROCESS COMPLAINTS~~

~~IMPARTIAL DUE PROCESS HEARING~~

~~34 CFR §300.511~~

~~General~~

~~Whenever a due process complaint is filed, you or the school district involved in the dispute must have an opportunity for an impartial due process hearing, as described in the ***Due Process Complaint*** and ***Resolution Process*** sections.~~

~~Impartial hearing officer~~

~~At a minimum, a hearing officer:~~

- ~~1. Must not be an employee of the State Educational Agency or the school district that is involved in the education or care of the child. However, a person is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer;~~
- ~~2. Must not have a personal or professional interest that conflicts with the hearing officer's objectivity in the hearing;~~
- ~~3. Must be knowledgeable and understand the provisions of IDEA, Federal and State regulations pertaining to IDEA, and legal interpretations of IDEA by Federal and State courts; and~~
- ~~4. Must have the knowledge and ability to conduct hearings, and to make and write decisions, consistent with appropriate, standard legal practice.~~

~~Each school district must keep a list of those persons who serve as hearing officers that includes a statement of the qualifications of each hearing officer.~~

~~Subject matter of due process hearing~~

~~The party (you or the school district) that requests the due process hearing may not raise issues at the due process hearing that were not addressed in the due process complaint, unless the other party agrees.~~

~~Timeline for requesting a hearing~~

~~You or the school district must request an impartial hearing on a due process complaint within two years of the date you or the school district knew or should have known about the issue addressed in the complaint.~~

~~Exceptions to the timeline~~

~~The above timeline does not apply to you if you could not file a due process complaint because:~~

- ~~1. The school district specifically misrepresented that it had resolved the problem or issue that you are raising in your complaint; or~~
- ~~2. The school district withheld information from you that it was required to provide to you under Part B of IDEA.~~

HEARING RIGHTS

34 CFR §300.512

General

~~You have the right to represent yourself at a due process hearing (including a hearing relating to disciplinary procedures) or an appeal with a hearing to receive additional evidence, as described under the subheading, **Appeal of decisions; impartial review**. In addition, any party to a hearing has the right to:~~

- ~~1. Be accompanied and advised by an attorney and/or persons with special knowledge or training regarding the problems of children with disabilities;~~
- ~~2. Be represented at the hearing by an attorney;~~
- ~~3. Present evidence and confront, cross-examine, and require the attendance of witnesses;~~
- ~~4. Prohibit the introduction of any evidence at the hearing that has not been disclosed to the other party at least five business days before the hearing;~~
- ~~5. Obtain a written, or, at your option, electronic, word-for-word record of the hearing; and~~
- ~~6. Obtain written, or, at your option, electronic findings of fact and decisions.~~

Additional disclosure of information

~~At least five business days prior to a due process hearing, you and the school district must disclose to each other all evaluations completed by that date and recommendations based on those evaluations that you or the school district intend to use at the hearing.~~

~~A hearing officer may prevent any party that fails to comply with this requirement from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.~~

Parental rights at hearings

~~You must be given the right to:~~

- ~~1. Have your child present at the hearing;~~
- ~~2. Open the hearing to the public; and~~
- ~~3. Have the record of the hearing, the findings of fact and decisions provided to you at no cost.~~

HEARING DECISIONS

34 CFR §300.513

Decision of the hearing officer

~~A hearing officer's decision on whether your child received a free appropriate public education (FAPE) must be based on evidence and arguments that directly relate to FAPE.~~

~~In matters alleging a procedural violation (such as "an incomplete IEP Team"), a hearing officer may find that your child did not receive FAPE only if the procedural violations:~~

- ~~1. Interfered with your child's right to a free appropriate public education (FAPE);~~
- ~~2. Significantly interfered with your opportunity to participate in the decision-making process regarding the provision of a free appropriate public education (FAPE) to your child; or~~
- ~~3. Caused your child to be deprived of an educational benefit.~~

~~None of the provisions described above can be interpreted to prevent a hearing officer from ordering a school district to comply with the requirements in the procedural safeguards section of the Federal regulations under Part B of IDEA (34 CFR §§300.500 through 300.536).~~

Separate request for a due process hearing

~~Nothing in the procedural safeguards section of the Federal regulations under Part B of IDEA (34 CFR §§300.500 through 300.536) can be interpreted to prevent you from filing a separate due process complaint on an issue separate from a due process complaint already filed.~~

Findings and decision provided to the advisory panel and general public

~~The State Educational Agency or the school district, (whichever was responsible for your hearing) after deleting any personally identifiable information, must:~~

- ~~1. Provide the findings and decisions in the due process hearing or appeal to the State special education advisory panel; and~~
- ~~2. Make those findings and decisions available to the public.~~

+ APPEALS

~~FINALITY OF DECISION; APPEAL; IMPARTIAL REVIEW~~

~~34 CFR §300.514~~

~~Finality of hearing decision~~

~~A decision made in a due process hearing (including a hearing relating to disciplinary procedures) is final, except that any party involved in the hearing (you or the school district) may appeal the decision by bringing a civil action, as described under the heading **Civil Actions, Including the Time Period in Which to File Those Actions**.~~

~~TIMELINES AND CONVENIENCE OF HEARINGS AND REVIEWS~~

~~34 CFR §300.515~~

~~The State Educational Agency must ensure that not later than 45 calendar days after the expiration of the 30 calendar day period for resolution meetings or, as described under the sub-heading **Adjustments to the 30-calendar-day resolution period**, not later than 45 calendar days after the expiration of the adjusted time period:~~

- ~~1. A final decision is reached in the hearing; and~~
- ~~2. A copy of the decision is mailed to each of the parties.~~

~~A hearing officer may grant specific extensions of time beyond the 45 calendar day time period described above at the request of either party (you or the school district).~~

~~Each hearing must be conducted at a time and place that is reasonably convenient to you and your child.~~

~~CIVIL ACTIONS, INCLUDING THE TIME PERIOD IN WHICH TO FILE THOSE ACTIONS~~

~~34 CFR §300.516~~

General

~~Any party (you or the school district) who does not agree with the findings and decision in the due process hearing (including a hearing relating to disciplinary procedures) has the right to bring a civil action with respect to the matter that was the subject of the due process hearing. The action may be brought in a State court of competent jurisdiction (a State court that has authority to hear this type of case) or in a district court of the United States without regard to the amount in dispute.~~

Time limitation

~~The party (you or the school district) bringing the action shall have 42 calendar days from the date of the decision of the hearing officer to file a civil action.~~

IDAPA 08.02.03.109.05g

Additional procedures

~~In any civil action, the court:~~

- ~~1. Receives the records of the administrative proceedings;~~
- ~~2. Hears additional evidence at your request or at the school district's request; and~~
- ~~3. Bases its decision on the preponderance of the evidence and grants the relief that the court determines to be appropriate.~~

~~Under appropriate circumstances, judicial relief may include reimbursement of private school tuition and compensatory education services.~~

Jurisdiction of district courts

~~The district courts of the United States have authority to rule on actions brought under Part B of IDEA without regard to the amount in dispute.~~

Rule of construction

~~Nothing in Part B of IDEA restricts or limits the rights, procedures, and remedies available under the U.S. Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973 (Section 504), or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under Part B of IDEA, the due process procedures described above must be exhausted to the same extent as would be required if the party filed the action under Part B of IDEA. This means that you may have remedies available under other laws that overlap with those available under IDEA, but in general, to obtain relief under those other laws, you must first use the available administrative remedies under IDEA (i.e., the due process complaint; resolution process, including the resolution meeting; and impartial due process hearing procedures) before going directly into court.~~

~~THE CHILD'S PLACEMENT WHILE THE DUE PROCESS COMPLAINT AND HEARING ARE PENDING~~

~~34 CFR §300.518~~

~~Except as provided below under the heading **PROCEDURES WHEN DISCIPLINING CHILDREN WITH DISABILITIES**, once a due process complaint is sent to the other party, during the resolution process time period, and while waiting for the decision of any impartial due process hearing or court proceeding, unless you and the State or school district agree otherwise, your child must remain in his or her current educational placement.~~

~~If the due process complaint involves an application for initial admission to public school, your child, with your consent, must be placed in the regular public school program until the completion of all such proceedings.~~

~~If the due process complaint involves an application for initial services under Part B of IDEA for a child who is transitioning from being served under Part C of IDEA to Part B of IDEA and who is no longer eligible for Part C services because the child has turned three, the school district is not required to provide the Part C services that the child has been receiving. If the child is found eligible under Part B of IDEA and you consent for your child to receive special education and related services for the first time, then, pending the outcome of the proceedings, the school district must provide those special education and related services that are not in dispute (those which you and the school district both agree upon).~~

~~If a hearing officer in a due process hearing conducted by the State Educational Agency agrees with you that a change of placement is appropriate, that placement must be treated as your child's current educational placement where your child will remain while waiting for the decision of any impartial due process hearing or court proceeding.~~

~~ATTORNEYS' FEES~~

~~34 CFR §300.517~~

~~General~~

~~In any action or proceeding brought under Part B of IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to you, if you prevail (win).~~

~~In any action or proceeding brought under Part B of IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to a prevailing State Educational Agency or school district, to be paid by your attorney, if the attorney: (a) filed a complaint or court case that the court finds is frivolous, unreasonable, or without foundation; or (b) continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or~~

~~In any action or proceeding brought under Part B of IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to a prevailing State Educational Agency or~~

~~school district, to be paid by you or your attorney, if your request for a due process hearing or later court case was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to unnecessarily increase the cost of the action or proceeding (hearing).~~

Award of fees

~~A court awards reasonable attorneys' fees as follows:~~

- ~~1. Fees must be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded.~~
- ~~2. Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under Part B of IDEA for services performed after a written offer of settlement is made to you if:~~
 - ~~a. The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of a due process hearing or State-level review, at any time more than 10 calendar days before the proceeding begins;~~
 - ~~b. The offer is not accepted within 10 calendar days; and~~
 - ~~c. The court or administrative hearing officer finds that the relief finally obtained by you is not more favorable to you than the offer of settlement.~~

~~Despite these restrictions, an award of attorneys' fees and related costs may be made to you if you prevail and you were substantially justified in rejecting the settlement offer.~~

- ~~1. Fees may not be awarded relating to any meeting of the individualized education program (IEP) Team unless the meeting is held as a result of an administrative proceeding or court action.~~

~~Fees also may not be awarded for a mediation as described under the heading **Mediation**.~~

~~A resolution meeting, as described under the heading **Resolution Process**, is not considered a meeting convened as a result of an administrative hearing or court action, and also is not considered an administrative hearing or court action for purposes of these attorneys' fees provisions.~~

~~The court reduces, as appropriate, the amount of the attorneys' fees awarded under Part B of IDEA, if the court finds that:~~

- ~~1. You, or your attorney, during the course of the action or proceeding, unreasonably delayed the final resolution of the dispute;~~
- ~~2. The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably similar skill, reputation, and experience;~~
- ~~3. The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or~~

4. ~~The attorney representing you did not provide to the school district the appropriate information in the due process request notice as described under the heading ***Due Process Complaint***.~~

~~However, the court may not reduce fees if the court finds that the State or school district unreasonably delayed the final resolution of the action or proceeding or there was a violation under the procedural safeguards provisions of Part B of IDEA.~~

~~PROCEDURES WHEN DISCIPLINING CHILDREN WITH DISABILITIES~~

~~AUTHORITY OF SCHOOL PERSONNEL~~

~~34 CFR §300.530~~

~~Case-by-case determination~~

~~School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change of placement, made in accordance with the following requirements related to discipline, is appropriate for a child with a disability who violates a school code of student conduct.~~

~~General~~

~~To the extent that they also take such action for children without disabilities, school personnel may, for not more than **10 school days** in a row, remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension. School personnel may also impose additional removals of the child of not more than **10 school days** in a row in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement (see the heading ***Change of Placement Because of Disciplinary Removals*** for the definition).~~

~~Once a child with a disability has been removed from his or her current placement for a total of **10 school days** in the same school year, the school district must, during any subsequent days of removal in that school year, provide services to the extent required below under the sub-heading ***Services***.~~

~~Additional authority~~

~~If the behavior that violated the student code of conduct was not a manifestation of the child's disability (see the subheading ***Manifestation determination***) and the disciplinary change of placement would exceed **10 school days** in a row, school personnel may apply the disciplinary procedures to that child with a disability in the same manner and for the same duration as it would to children without disabilities, except that the school must provide services to that child~~

as described below under **Services**. The child's IEP Team determines the interim alternative educational setting for such services.

Services

The school district does not provide services to a child with a disability or a child without a disability who has been removed from his or her current placement for **10 school days or less** in that school year.

A child with a disability who is removed from the child's current placement for **more than 10 school days** and the behavior is not a manifestation of the child's disability (see subheading, **Manifestation determination**) or who is removed under special circumstances (see the subheading, **Special circumstances**) must:

1. Continue to receive educational services (have available a free appropriate public education), so as to enable the child to continue to participate in the general education curriculum, although in another setting (that may be an interim alternative educational setting), and to progress toward meeting the goals set out in the child's IEP; and
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, which are designed to address the behavior violation so that it does not happen again.

After a child with a disability has been removed from his or her current placement for **10 school days** in that same school year, and if the current removal is for **10 school days** in a row or less and if the removal is not a change of placement (see definition below), then school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

If the removal is a change of placement (see the heading, **Change of Placement Because of Disciplinary Removals**), the child's IEP Team determines the appropriate services to enable the child to continue to participate in the general education curriculum, although in another setting (that may be an interim alternative educational setting), and to progress toward meeting the goals set out in the child's IEP.

Manifestation determination

Within **10 school days** of any decision to change the placement of a child with a disability because of a violation of a code of student conduct (except for a removal that is for **10 school days** in a row or less and not a change of placement), the school district, you, and other relevant members of the IEP Team (as determined by you and the school district) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by you to determine:

1. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

- ~~2. If the conduct in question was the direct result of the school district's failure to implement the child's IEP.~~

~~If the school district, you, and other relevant members of the child's IEP Team determine that either of those conditions was met, the conduct must be determined to be a manifestation of the child's disability.~~

~~If the school district, you, and other relevant members of the child's IEP Team determine that the conduct in question was the direct result of the school district's failure to implement the IEP, the school district must take immediate action to remedy those deficiencies.~~

~~Determination that behavior was a manifestation of the child's disability~~

~~If the school district, you, and other relevant members of the IEP Team determine that the conduct was a manifestation of the child's disability, the IEP Team must either:~~

- ~~1. Conduct a functional behavioral assessment, unless the school district had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or~~
- ~~2. If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior.~~

~~Except as described below under the sub-heading **Special circumstances**, the school district must return your child to the placement from which your child was removed, unless you and the district agree to a change of placement as part of the modification of the behavioral intervention plan.~~

~~Special circumstances~~

~~Whether or not the behavior was a manifestation of your child's disability, school personnel may remove a student to an interim alternative educational setting (determined by the child's IEP Team) for not more than 45 school days, if your child:~~

- ~~1. Carries a weapon (see the definition below) to school or has a weapon at school, on school premises, or at a school function under the jurisdiction of the State Educational Agency or a school district;~~
- ~~2. Knowingly has or uses illegal drugs (see the definition below), or sells or solicits the sale of a controlled substance, (see the definition below), while at school, on school premises, or at a school function under the jurisdiction of the State Educational Agency or a school district; or~~
- ~~3. Has inflicted serious bodily injury (see the definition below) upon another person while at school, on school premises, or at a school function under the jurisdiction of the State Educational Agency or a school district.~~

~~Definitions~~

~~*Controlled substance* means a drug or other substance identified under schedules I, II, III, IV, or~~

~~V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).~~

~~Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.~~

~~Serious bodily injury has the meaning given the term “serious bodily injury” under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.~~

~~Weapon has the meaning given the term “dangerous weapon” under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.~~

Notification

~~On the date it makes the decision to make a removal that is a change of placement of your child because of a violation of a code of student conduct, the school district must notify you of that decision, and provide you with a procedural safeguards notice.~~

~~CHANGE OF PLACEMENT BECAUSE OF DISCIPLINARY REMOVALS~~

~~34 CFR §300.536~~

~~A removal of your child with a disability from your child’s current educational placement is a change of placement if:~~

- ~~1. The removal is for more than 10 school days in a row; or~~
- ~~2. Your child has been subjected to a series of removals that constitute a pattern because:~~
 - ~~a. The series of removals total more than 10 school days in a school year;~~
 - ~~b. Your child’s behavior is substantially similar to the child’s behavior in previous incidents that resulted in the series of removals; and~~
 - ~~c. Of such additional factors as the length of each removal, the total amount of time your child has been removed, and the proximity of the removals to one another.~~

~~Whether a pattern of removals constitutes a change of placement is determined on a case-by-case basis by the school district and, if challenged, is subject to review through due process and judicial proceedings.~~

~~DETERMINATION OF SETTING~~

~~34 CFR §300.531~~

~~The individualized education program (IEP) Team determines the interim alternative educational setting for removals that are **changes of placement**, and removals under the subheadings **Additional authority** and **Special circumstances**.~~

APPEAL

34 CFR §300.532

General

You may file a due process complaint (see the heading ***Due Process Complaint Procedures***) to request a due process hearing if you disagree with:

1. Any decision regarding placement made under these discipline provisions; or
2. The manifestation determination described above.

The school district may file a due process complaint (see above) to request a due process hearing if it believes that maintaining the current placement of your child is substantially likely to result in injury to your child or to others.

Authority of hearing officer

A hearing officer that meets the requirements described under the subheading ***Impartial hearing officer*** must conduct the due process hearing and make a decision. The hearing officer may:

1. Return your child with a disability to the placement from which your child was removed if the hearing officer determines that the removal was a violation of the requirements described under the heading ***Authority of School Personnel***, or that your child's behavior was a manifestation of your child's disability; or
2. Order a change of placement of your child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of your child is substantially likely to result in injury to your child or to others.

These hearing procedures may be repeated, if the school district believes that returning your child to the original placement is substantially likely to result in injury to your child or to others.

Whenever you or a school district files a due process complaint to request such a hearing, a hearing must be held that meets the requirements described under the headings ***Due Process Complaint Procedures, Hearings on Due Process Complaints***, except as follows:

1. The State Educational Agency or school district must arrange for an expedited due process hearing, which must occur within 20 school days of the date the hearing is requested and must result in a determination within 10 school days after the hearing.
2. Unless you and the school district agree in writing to waive the meeting, or agree to use mediation, a resolution meeting must occur within seven calendar days of receiving notice of the due process complaint. The hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 calendar days of receipt of the due process complaint.

- ~~3. A State may establish different procedural rules for expedited due process hearings than it has established for other due process hearings, but except for the timelines, those rules must be consistent with the rules in this document regarding due process hearings.~~

~~You or the school district may appeal the decision in an expedited due process hearing in the same way as for decisions in other due process hearings (see the heading **Appeal**).~~

PLACEMENT DURING APPEALS

34 CFR §300.533

~~When, as described above, you or the school district file a due process complaint related to disciplinary matters, your child must (unless you and the State Educational Agency or school district agree otherwise) remain in the interim alternative educational setting pending the decision of the hearing officer, or until the expiration of the time period of removal as provided for and described under the heading **Authority of School Personnel**, whichever occurs first.~~

PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES

34 CFR §300.534

General

~~If your child has not been determined eligible for special education and related services and violates a code of student conduct, but the school district had knowledge (as determined below) before the behavior that brought about the disciplinary action occurred, that your child was a child with a disability, then your child may assert any of the protections described in this notice.~~

Basis of knowledge for disciplinary matters

~~A school district will be deemed to have knowledge that your child is a child with a disability if, before the behavior that brought about the disciplinary action occurred:~~

- ~~1. You expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or to your child's teacher that your child is in need of special education and related services;~~
- ~~2. You requested an evaluation related to eligibility for special education and related services under Part B of IDEA; or~~
- ~~3. Your child's teacher or other school district personnel expressed specific concerns about a pattern of behavior demonstrated by your child directly to the school district's~~

~~director of special education or to other supervisory personnel of the school district.~~

Exception

~~A school district would not be deemed to have such knowledge if:~~

- ~~1. You have not allowed an evaluation of your child or have refused special education services; or~~
- ~~2. Your child has been evaluated and determined to not be a child with a disability under Part B of IDEA.~~

Conditions that apply if there is no basis of knowledge

~~If prior to taking disciplinary measures against your child, a school district does not have knowledge that your child is a child with a disability, as described above under the sub-headings **Basis of knowledge for disciplinary matters** and **Exception**, your child may be subjected to the disciplinary measures that are applied to children without disabilities who engage in comparable behaviors.~~

~~However, if a request is made for an evaluation of your child during the time period in which your child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner.~~

~~Until the evaluation is completed, your child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.~~

~~If your child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the school district, and information provided by you, the school district must provide special education and related services in accordance with Part B of IDEA, including the disciplinary requirements described above.~~

REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES

34 CFR §300.535

~~Part B of IDEA does not:~~

- ~~1. Prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities; or~~
- ~~2. Prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.~~

Transmittal of records

~~If a school district reports a crime committed by a child with a disability, the school district:~~

- ~~1. Must ensure that copies of the child's special education and disciplinary records are transmitted for consideration by the authorities to whom the agency reports the crime; and~~
- ~~2. May transmit copies of the child's special education and disciplinary records only to the extent permitted by the Family Educational Rights and Privacy Act (FERPA).~~

REQUIREMENTS FOR UNILATERAL PLACEMENT BY PARENTS OF CHILDREN IN PRIVATE SCHOOLS AT PUBLIC EXPENSE

GENERAL

34 CFR §300.148

~~Part B of IDEA does not require a school district to pay for the cost of education, including special education and related services, of your child with a disability at a private school or facility if the school district made a free appropriate public education (FAPE) available to your child and you choose to place the child in a private school or facility. However, the school district where the private school is located must include your child in the population whose needs are addressed under the Part B provisions regarding children who have been placed by their parents in a private school under 34 CFR §§300.131 through 300.144.~~

Reimbursement for private school placement

~~If your child previously received special education and related services under the authority of a school district, and you choose to enroll your child in a private preschool, elementary school, or secondary school without the consent of or referral by the school district, a court or a hearing officer may require the agency to reimburse you for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education (FAPE) available to your child in a timely manner prior to that enrollment and that the private placement is appropriate. A hearing officer or court may find your placement to be appropriate, even if the placement does not meet the State standards that apply to education provided by the State Educational Agency and school districts.~~

Limitation on reimbursement

~~The cost of reimbursement described in the paragraph above may be reduced or denied:~~

- ~~1. If: (a) At the most recent individualized education program (IEP) meeting that you attended prior to your removal of your child from the public school, you did not inform the IEP Team that you were rejecting the placement proposed by the school district to provide FAPE to your child, including stating your concerns and your intent to enroll your child in a private school at public expense; or (b) At least 10 business days (including any holidays that occur on a business day) prior to your removal of your child from the public school, you did not give written notice to the school district of that~~

information;

- ~~2. If, prior to your removal of your child from the public school, the school district provided prior written notice to you of its intent to evaluate your child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but you did not make the child available for the evaluation; or~~
- ~~3. Upon a court's finding that your actions were unreasonable.~~

However, the cost of reimbursement:

- ~~1. Must not be reduced or denied for failure to provide the notice if: (a) The school prevented you from providing the notice; (b) You had not received notice of your responsibility to provide the notice described above; or (c) Compliance with the requirements above would likely result in physical harm to your child; and~~
- ~~2. May, in the discretion of the court or a hearing officer, not be reduced or denied for your failure to provide the required notice if: (a) You are not literate or cannot write in English; or (b) Compliance with the above requirement would likely result in serious emotional harm to your child.~~

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CHAPTER 13: DISPUTE RESOLUTION

On occasion, conflicts arise between ~~school districts~~ LEAs and families. Several mechanisms are available through the ~~State Idaho~~ Department of Education (~~SDE~~) to assist in resolving a dispute. The processes are facilitation, ~~informal conflict resolution~~, mediation, state complaints, due process hearings, and expedited due process hearings. This chapter contains information on each of these processes. The information contained within this chapter is not intended to limit in any manner the procedural due process/dispute resolution rights provided by federal or state law.

~~Contact Information~~

In addition to providing general information and support concerning IDEA related issues, the ~~Idaho Department of Education SDE~~ accepts requests for facilitation, informal conflict resolution, and mediation by telephone and e-mail. State complaints and due process hearings are accepted via ~~fax~~, mail, personal delivery, or may be scanned and attached to an email. All state complaints and due process hearing requests must include the signature of the filing party.

The Dispute Resolution (DR) office is an impartial office that provides general information, support, and resources about the IDEA and available dispute resolution processes; and connects constituents with other special education partners. DR staff do not advise parties on the actions they should take or provide legal advice.

Requests for dispute resolution should be directed to the ~~Dispute Resolution~~ DR office (~~DRC~~) at:

Special Education Dispute Resolution
Idaho ~~Department State Dept.~~ of Education
P.O. Box 83720
Boise, ID 83720-0027
(208) 332-6914
(800) 432-4601
TT: (800) 377-3529
~~Fax: (208) 334-2228~~
disputeresolution@sde.idaho.gov

For further assistance in matters relating to dispute resolution, you may contact:
[DisAbility Rights Idaho](#)

Boise Office:
9542 Bethel Ct.
~~4477 Emerald St., Ste B-100~~
Boise, ID ~~83706-2066~~ 83209
(208) 336-5353
(208) 336-5396 (fax)
~~(800) 632-5125~~ (866) 262-3462 (toll-free)

Pocatello Office:
1246 Yellowstone Avenue, Suite A-3

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Section 1. Facilitation

A. Definition of Facilitation

Facilitation is a voluntary process during which a dispute resolution ~~contracted individual or individuals~~ ~~contractor~~ facilitates an IEP team meeting or other IDEA-related meeting. The role of the facilitator is to help the ~~IEP~~ team members, including the parents/adult student and the student (when appropriate), communicate more effectively and efficiently. Facilitation supports early dispute resolution by providing assistance to the ~~IEP~~ team before a conflict develops into a formal dispute. A facilitator is trained to help ~~IEP~~ teams collaboratively plan for the ~~IEP~~ team meeting, focus on key issues, and move toward productive outcomes. ~~Because the~~ The facilitator is not a member of the ~~IEP~~ team, ~~he or she can act and acts~~ as a neutral and impartial third-party, providing balance, ~~offer an outsider's~~ offering a neutral perspective on the process, and ~~help~~ helping parties to be heard and understood by the rest of the ~~IEP~~ team. ~~Note:~~ A facilitator will not be responsible for creating or documenting decisions made by the IEP team or in any ~~other IDEA special education~~-related meeting.

Facilitation is offered at no ~~charge~~ cost to the ~~district~~ LEA or the parent/adult student.

B. Facilitation Requests

A request for facilitation may be made by either a parent/adult student or a designated district representative, such as the director of special education. Facilitation may be requested for any IDEA-related meeting including: eligibility meetings,; annual or amended IEP team meetings,; due process hearing meetings such as resolution sessions or settlement meetings,; ~~as well as~~ and manifestation determination meetings.

~~Requests~~ To ensure the availability of a facilitator, requests for facilitation should be made at least two weeks in advance ~~to of~~ the meeting. Upon the request for facilitation, the ~~Dispute Resolution DR office (DRC)~~ will ~~immediately~~ contact the other party for approval. As facilitation is voluntary, both parties must agree to facilitation for the process to go forward. The ~~DRC-office~~ will contact both the parent/adult student and the district representative, notifying

~~each~~ ~~them~~ who the facilitator will be. The facilitator will contact the parties to conduct pre-facilitation interviews to help build an agenda for the facilitation. ~~Generally, meetings are scheduled by the district which is responsible for sending out the Invitation to Meeting.~~ The LEA is responsible for scheduling the meeting and sending out the *Invitation to a Meeting*.

C. Facilitator Role

The role of the facilitator is to lead the ~~IEP~~ team meeting and guide parties through the process. The facilitator may work with parties to establish the agenda and identify issues ~~that are important to each party~~ ~~important for parties to cover and will be covered~~ in the meeting. Facilitators may ask pertinent questions of parties, providing occasional clarification or perspective, and work to ensure that ~~participants~~ parties are able to participate in a productive and balanced meeting. ~~Facilitators are not to will not make decisions for teams, serve as definitive experts on IDEA processes or matters of law, record minutes for meetings, or finalize documents although they may facilitate the crafting of language parties will include in a student's IEP.~~ Facilitators do not make decisions for teams, serve as definitive experts on IDEA processes or legal matters, record meeting minutes, or finalize documents. However, they may assist in crafting language that parties include in a student's IEP. Facilitators cannot compel parties to act or refrain from acting, do not maintain educational records, and are not responsible for ensuring compliance.

Facilitators shall not be called to testify in due process hearings or civil proceedings regarding facilitated meetings they have conducted, ~~nor shall they be compelled to disclose the substance of any discussion that occurred during the facilitation process.~~ ~~as dispute resolution contractors.~~

D. Dispute Resolution Facilitators

Facilitators are trained in effective conflict resolution processes, communication, negotiation, problem-solving, and in laws and regulations relating to the provision of special education and related services. While a facilitator in this context will not offer advice on a particular course of action, ~~they he or she is required to~~ will help the parties explore the soundness of any assumptions or agreements. The ~~DRC~~ Coordinator may appoint one or two individuals to serve as facilitator(s) of a meeting.

In all cases, a facilitator shall not:

1. be an employee of the ~~district~~ LEA involved in the dispute;
2. have children enrolled in the ~~district~~ LEA involved in the dispute;
3. have a personal or professional interest that may affect the ability to remain impartial or neutral; or
4. be used if either party rejects the facilitator(s) based on a perceived inability to be neutral or impartial.

~~E. Facilitation Timelines~~

~~The DRC will appoint a facilitator within five (5) business days of an acceptance of a request. Every effort will be made to complete the process within twenty-one (21) calendar days.~~

Section 2. Informal Conflict Resolution

A. Definition of Informal Conflict Resolution

~~Informal conflict resolution is offered in an effort to improve relationships between parties and foster healthy communication. This informal conflict resolution may include topics outside of those set forth as appropriate for IDEA mediation, extending beyond the identification, evaluation, educational placement or the provision of FAPE. As with mediation, the process of informal conflict resolution is confidential and voluntary, and the third party is a trained neutral and impartial third party. Informal conflict resolution may be appropriate when parties face difficulties communicating productively or need to reach understanding on differing perspectives. Any agreements reached between parties are self-enforced.~~

B. Informal Conflict Resolution Requests

~~A request for informal conflict resolution may be made in person, writing or via telephone by either a parent/adult student or a district representative. The DRC Coordinator will screen requests to determine the appropriateness of the process for each individual case. Informal conflict resolution can be scheduled prior to, or concurrent with, a request for a due process hearing or investigation of a state complaint involving an individual student, however, cannot be used to delay the state complaint process or a due process hearing timelines.~~

~~Upon request for informal conflict resolution, the DRC Coordinator or the assigned facilitator will contact all parties to schedule the meeting. Because informal conflict resolution is voluntary, both parties must verbally state their agreement to participate for the process to go forward. Informal conflict resolution can be conducted by dispute resolution contractors or dispute resolution staff as assigned by the DRC Coordinator. Informal conflict resolution is offered at no charge to the district or to the parent/adult student.~~

C. Informal Conflict Resolution Procedures

- ~~1. No video or audio recording of the meeting proceedings will be made.~~
- ~~2. Because informal conflict resolution is a non-adversarial process that offers the parties the opportunity to communicate directly with each other, legal representation during the meeting is discouraged, and a school district may not have legal representation present if a parent/adult student does not.~~
- ~~3. The DR office will not retain any documentation or informal agreements created by the parties. No other records of the content of the meeting will be kept by the SDE.~~
- ~~4. Either party has the option to end the informal conflict resolution meeting at any time.~~

D. Informal Conflict Resolution Timelines

~~The DRC will appoint a facilitator within five (5) business days of an acceptance of a request. The meeting will be held in a location convenient to the parties involved, and every effort will be made to complete the process within twenty-one (21) calendar days.~~

E. Confidentiality

~~Discussions that occur during the informal conflict resolution process are confidential and cannot be used as evidence in any subsequent due process hearing or civil proceeding in any state or federal court. Facilitators shall not be called to testify in due process hearings or civil proceedings regarding facilitated meetings they have conducted as dispute resolution contractors.~~

~~The facilitator may require a confidentiality agreement be signed by participants.~~

F. Nature of Agreements

~~An agreement reached by the parties through informal conflict resolution, whether memorialized in writing or agreed to verbally, are self-enforced and not enforceable by the SDE.~~

Section 3 2. Mediation

A. Definition of Mediation

Mediation is a confidential and voluntary process where a ~~qualified, trained~~ neutral, and impartial mediator trained in effective mediation techniques and knowledgeable in laws and regulations relating to the provision of special education and related services is assigned to assist special education teams. ~~third-party provides a~~ Mediation provides structure for parents/adult students and district personnel to identify areas of agreement and work to resolve points of disagreement concerning the identification, evaluation, educational placement, or provision of FAPE. Mediation aims to build positive working relationships, encourage mutual understanding, and help the parties focus on their common interest—the student.

Discussions in mediation are not discoverable in pending or subsequent due process hearings or civil proceedings. Parties are provided an ~~Acknowledgment and~~ *Notification of Mediation Confidentiality* form. Written agreements produced in mediation are legally-binding and enforceable in state or federal court. With the agreement of all parties in the mediation, an IEP may be amended as part of a written agreement.

Mediation may be appropriate when parties are in disagreement and seem unable to move forward without ~~outside~~ assistance, or they, after making a good-faith effort, face an impasse in an attempt to resolve the disagreement. Mediation can be scheduled prior to, or concurrent with, a request for a due process hearing or investigation of a state complaint.

B. Mediation Requests

1. A request for mediation may be made in person, writing, or via telephone by either a parent/adult student or a district representative at any point when a disagreement occurs about the student's educational program ~~circumstances of the education of a student by the district~~. The DRC-office will screen all mediation requests to determine the appropriateness of the mediation process for each individual case.

2. Mediation is automatically offered when a state complaint involving an individual student or a request for a due process hearing has been filed. Mediation cannot be used to delay the state complaint ~~process~~ or a due process hearing timelines. ~~An extension must be agreed upon in writing by the parent/adult student and the LEA. unless the parent/adult child and the district agree in writing to extend the 60-day timeline.~~ The state complaint timeline cannot be extended beyond 90 days.
3. Upon request for mediation, the ~~Dispute Resolution~~ DR office will contact all parties to ~~schedule~~ assign the mediation. Because mediation is voluntary, both parties must verbally agree to mediate for the process to go forward. Mediators are selected by the DR ~~office~~ from a list of trained professionals.
4. Mediation is provided at no ~~charge~~ cost to the ~~district~~ LEA or to the parent/adult student.

C. Mediation Procedures

1. The mediation ~~will~~ shall be conducted in compliance with the IDEA.
2. No video or audio recording of the mediation proceedings will be made.
3. Each party is limited to no more than three participants who have the authority to make final resolution decisions. The mediator ~~may exercise discretion to~~ increase this number ~~at his or her discretion and~~ with the agreement of all parties.
4. The district shall have at least one representative present who has the authority to commit resources.
5. Because mediation is a non-adversarial process that offers the parties the opportunity to communicate directly with each other, legal representation during a mediation session is discouraged. A district may not have legal representation present if a parent/adult student does not.
6. The Dispute Resolution office will retain copies of *the Notification of Mediation Confidentiality form*. ~~the signed agreement, if an agreement is reached.~~ No other records of the mediation will be kept by the DR office ~~SDE~~.
7. ~~If an agreement is reached, the~~ The mediator will provide signed copies of the agreement; ~~if an agreement is reached;~~ to each party.
8. ~~The mediator, afforded mediator privilege under Idaho law, will be excluded from participation in subsequent actions specific to the case mediated including complaint investigations, due process hearings, and legal proceedings. The~~ If additional mediation is requested or required by a mediated agreement, the same mediator may mediate again ~~for the parties~~ if assigned and both parties approve. ~~or if the mediated agreement calls for the mediator's potential future participation with the parties.~~
9. Mediators shall not be called to testify in due process hearings or civil proceedings regarding the mediations they have conducted, nor shall they be compelled to disclose the substance of any discussions that occurred during the mediation process.

10. A due process hearing requested prior to mediation may be canceled by the requesting party as a result of the mediation agreement. The requesting party will immediately provide the hearing officer with documentation of the voluntary withdrawal of the due process hearing request. The mediator will immediately inform the ~~Dispute Resolution~~ DR office of the decision to withdraw the due process hearing request.
11. If for any reason the mediation does not end in a written agreement, the mediator will provide each party and the ~~Dispute Resolution-DR office Coordinator~~ with a statement certifying that mediation occurred, but no agreement was reached.
12. Either party has the option to end the mediation at any time.

D. Dispute Resolution Mediators

Dispute resolution mediators are trained in effective conflict resolution processes, communication, negotiation, problem-solving skills, and in laws and regulations relating to the provision of special education and related services. While a mediator will not offer advice on a particular course of action, a mediator ~~is required to~~ will help the parties explore the soundness of any agreement. Mediators are assigned on a rotational basis with consideration for geographical location.

In all cases a mediator shall not:

1. be an employee of the ~~SDE~~ Idaho Department of Education or ~~district~~ LEA involved in the education of the student the dispute;
2. ~~have children enrolled in the district involved in the dispute;~~
3. have a personal or professional interest that conflicts with the mediator's objectivity ~~may affect the ability to remain impartial or neutral;~~ or
4. be used if either party rejects the mediator based on a perceived inability to be neutral or impartial.
 2. ~~Additionally, if the parties have agreed to mediation following a due process hearing request, co-mediators may not be used.~~

E. Mediator Role

The mediator has the responsibility to contact the parties to explain the mediation process, identify issues, and help the parties establish a date, time, and place to hold the mediation. The mediator also: establishes the ground rules for all parties to follow,; guides the process,; encourages open and honest communication,; ensures that each party is heard,; paraphrases information, ~~and~~ summarizes issues,; and facilitates the writing of the agreement.

The mediator does not determine the terms of a mediated agreement but may act as a scribe. Mediators will not make decisions for teams or serve as definitive experts on IDEA processes or matters of law.

F. Mediation Timelines

To ensure the availability of a mediator, requests for mediation should be made by the parties in a timely manner. Once a request is received, the ~~The DRC~~ office will assign a mediator in a timely manner. ~~will appoint a mediator within three (3) business days of all parties agreeing to mediate.~~ The mediation will be held at a ~~in a mutually convenient time and location. convenient to the parties involved, and every effort will be made to complete the process within twenty-one (21) calendar days.~~

G. Confidentiality

Discussions that occur during the mediation process cannot be used as evidence in any subsequent due process hearing or civil proceeding. Parties in the mediation process will be provided a copy of the *Notification and Acknowledgment of Mediation Confidentiality* form.

H. Mediation Agreement

An agreement reached by the parties through mediation shall be set forth in writing and is enforceable in state and federal courts.

An effective mediation agreement should identify:

1. What action(s) will be taken and when the action(s) will begin.
2. When the action(s) will be completed.
3. Who is responsible for taking the action(s).
4. Who is responsible for making sure the action(s) is taken.
5. The time period of the agreement.
6. A process for review when the actions are completed.
7. A plan for making changes to the agreement, if needed.
8. What to do if a participant thinks the terms of the agreement are not being completed.
9. A ~~statement~~ ~~Statement~~ of confidentiality.
10. The date of the agreement and the signatures of the participants.

Section 4 3. State Complaints

1. Definition of State Complaint

State complaints can be filed by any individual or organization alleging any violation of the IDEA, including an alleged failure to comply with a previous due process hearing decision. State complaint procedures are outlined in IDEA regulations requiring, in part, ~~that~~ a complaint must allege a violation that occurred no more than one year (365 days) prior to the date the complaint ~~has been~~ ~~was~~ received. ~~(See IDEA regulations 34 CFR §300.150 through 300.153).~~

The filing party must provide a written complaint that includes the name and contact information of the complainant, the name, address, and the student's school of attendance attending school of child (if applicable), description and facts of the alleged problem to the extent known and available to the complainant at the time, and a proposed resolution.

The party filing the complaint must forward a copy of the complaint to the district LEA at the same time the party files the complaint with the Dispute Resolution DR office. The Idaho Department of Education will appoint a complaint investigator.

IDEA allows sixty (60) days to resolve the complaint with mediation, investigation, and final report, unless an exception applies. ~~or a pre-investigation corrective action plan (CAP).~~

2. Filing a State Complaint

The state complaint will be accepted if received by mail, ~~fax~~, hand delivery, or scanned and attached to an email with the complainant's signature included. Reasonable accommodations will be provided to individuals who need assistance in filing complaints. A state complaint ~~led by a parent/adult student or public agency~~ must be signed and must include all of the information indicated on the *Form for Filing a State Complaint*. ~~The DRC will develop of violation(s) of IDEA for investigation from the submitted complaint.~~

~~C. Methods of Resolving State Complaints~~

- ~~1. Mediation will be offered by the DRC to the complainant and the district when the complaint involves an individual student.~~
- ~~2. The complainant and the district may resolve all, part or none of the allegations in mediation.~~

~~If an agreement is reached, the complainant must notify the DRC in writing of the parties' agreement. When the DRC receives this notification, any resolved allegations will be dismissed from the state complaint. If all of the state complaint allegations are not resolved, the SDE will investigate the remaining allegations.~~

- ~~3. If mediation, is not accepted by the parties, or fails to resolve the allegation(s) that gave rise to the complaint, then resolution of a state complaint may be achieved through one or more of the following processes:~~

- ~~a. **Verification of resolution:** Upon receipt of the allegations determined by the complaint investigator and the DRC, the district may submit information to document that one or more of the allegations of the complaint have been resolved. The Dispute Resolution office may also receive similar information from other sources.~~
- ~~b. **Corrective action plan (CAP):** The district may propose a CAP to address the allegations in the complaint. The DRC may accept, reject, or negotiate the proposed CAP, or require other corrective actions or timelines to ensure the district will achieve compliance for each allegation stated in the complaint. If this~~

~~process is not successful, an investigation will be conducted on unresolved allegations.~~

~~c. **Investigation:** The SDE will appoint a complaint investigator to the case who will conduct a fact-finding investigation which may include interviews and reviews of files, correspondence, and other information. An onsite investigation may occur as part of the investigation. The complaint investigator will submit his or her findings of fact, conclusions, and, in coordination with the SDE, identify appropriate corrective actions, if required.~~

~~D. State Complaint Procedures~~

~~Upon receipt of a written state administration complaint, the DRC will ensure the following procedures are followed:~~

- ~~1. Verify proper filing procedures were followed and determine if the complaint meets established criteria, including sufficient allegations of violation of IDEA (as developed by the DRC from the submitted complaint) and facts within five (5) business days.~~
- ~~2. The complainant will be notified if a submission is insufficient to process as a complaint. The complainant will be given the opportunity to submit additional information about the allegations, whereas upon receipt of the additional information, the sixty (60) day timeline for completion will start.~~
- ~~3. The district (specifically the superintendent, the special education director, and the school board chair) will be notified by the DRC that the complaint has been received and what, if any, allegations have been accepted for investigation within ten (10) business days of receiving the complaint. The school district is given an opportunity to respond to the complaint and may initiate within fourteen (14) days of receipt of the complaint a corrective action proposal (CAP) to resolve all or some of the allegations in the complaint, subject to DRC approval. At the complaint investigator's discretion, the timeline for a CAP may be extended, or the complaint investigation may progress until a CAP has been accepted by the Dispute Resolution office. The complaint investigator is responsible for managing the timelines of the investigation and may submit a final report at any point within the 60-day timeline.~~
- ~~4. Mediation can be requested by either party at any time and must be offered for complaints regarding an individual student. While parties are generally encouraged to resolve complaints collaboratively, choosing not to participate in mediation will not be considered relevant in an investigation. If parties opt for mediation, it will not delay the timelines required for resolving a complaint unless all parties agree.~~
- ~~5. Provide the parent/adult student a copy of the *Procedural Safeguards Notice*.~~
- ~~6. Complainants will be given an opportunity to provide additional information about the allegations, either orally or in writing.~~
- ~~7. All or any part of the written complaint will be set aside by the hearing officer, if the allegation is being addressed in a pending due process hearing or a hearing decision which has already been rendered. Any issue not a part of a due process action will be resolved following the state complaint procedures and timelines.~~
- ~~8. The Dispute Resolution office will investigate a complaint alleging that a final hearing officer decision is not being implemented by a public agency.~~

~~9. A final report of the investigation will be issued to the district superintendent, board chairperson, special education director, and complainant, that shall include but is not limited to the findings of fact, conclusions, and corrective action(s) for each allegation within sixty (60) calendar days of receipt of a sufficient complaint. (see D.1). This time period may be extended, but only under exceptional circumstances, which shall be documented by the DRC, or if the complainant and public agency agree to extend the time to engage in mediation or other alternative dispute resolution procedures.~~

~~10. If a violation of the IDEA is verified by the complaint investigator, the report shall include corrective actions addressing, as appropriate:~~

- ~~a. how to remedy any denial of FAPE, which may include the award of compensatory services, monetary reimbursement, or other corrective action as appropriate to the needs of the student;~~
- ~~b. the future provision of services to be considered by an IEP team for the student with a disability, when appropriate; and~~
- ~~c. the provisions of technical assistance, documentation of compliance, or written assurances, if needed.~~

~~11. The SDE will ensure the district takes corrective action set forth in the final report if it is determined that the district was out of compliance through technical assistance activities, negotiations, and/or corrective actions no later than one year after the identification of non-compliance. A complaint investigation final report cannot amend a student's IEP.~~

~~12. The Dispute Resolution office ensures noncompliance has been corrected and verifies through review of documentation or interviews, or both, the corrective actions were implemented no later than one year (365 days) after the determination of noncompliance. If necessary, the SDE must use appropriate enforcement mechanisms such as the provision of technical assistance, conditions on funding, a corrective action, an improvement plan, and/or withholding funds, in whole or in part.~~

3. State Complaint Procedures

Upon receipt of a written state administration complaint, the DR office will ensure the following procedures are followed:

1. Verify proper filing procedures were followed and determine if the complaint meets established criteria, including sufficient allegations of violation of IDEA (as developed by the DR office from the submitted complaint) and facts within five (5) business days.
2. The complainant will be notified if a submission is insufficient to process as a complaint. The complainant will be given the opportunity to submit additional information about the allegations, whereas upon receipt of the additional information, the sixty (60) day timeline for completion will start.
3. The DR office will appoint a complaint investigator. Complaint investigators shall not be called to testify in due process hearings or civil proceedings regarding the investigations they have conducted, nor shall they be compelled to disclose the substance of any discussions that occurred during the investigative process.

4. In collaboration with the assigned complaint investigator, the DR office will identify the alleged IDEA violations to be investigated based on the submitted complaint and will inform the parties of the finalized allegations.
5. The complaint investigator is responsible for managing the timelines of the investigation and may submit a final report at any point within the 60-day timeline. The 60-day timeline may be extended if exceptional circumstances exist, or the parties agree to extend the timeline in order to engage in mediation.
6. The LEA (specifically the superintendent, the special education director, and the school board chair) will be notified by the DR office within ten (10) business days of receiving the complaint that the complaint has been received and what, if any, allegations have been accepted for investigation. The LEA is given an opportunity to respond to the complaint. Mediation can be requested by either party at any time and must be offered for complaints regarding an individual student. While parties are generally encouraged to resolve complaints collaboratively, choosing not to participate in mediation will not be considered relevant in an investigation. If parties engage in mediation, it will not delay the timelines required for resolving a complaint unless all parties agree.
7. Provide the parent/adult student a copy of the *Procedural Safeguards Notice*.
8. All parties will be given an opportunity to provide additional information about the allegations, either orally or in writing.
9. The complaint investigator will conduct a fact-finding investigation of all relevant information, which may, at the discretion of the complaint investigator, include interviews and reviews of files, correspondence, and other information. An onsite investigation may occur, as deemed appropriate.
10. The LEA may propose corrective actions to address the allegations in the complaint. In resolving a complaint in which the DR office found a failure to provide appropriate services, the DR office, pursuant to its general supervisory authority, may accept, reject, or negotiate the proposed corrective actions, or require other corrective actions or timelines to ensure the LEA will achieve compliance for each allegation stated in the complaint.
11. All or any part of the written complaint will be set aside if the allegation is being addressed in a pending due process hearing or a hearing decision which has already been rendered. Any issue not a part of a due process action will be resolved following the state complaint procedures and timelines.
12. The complaint investigator will submit his or her findings of fact, conclusions, and, in coordination with the DR office, identify appropriate corrective actions, if required. The Idaho Department of Education shall make an independent determination, based on the review of all relevant information, as to whether the LEA violated a requirement of the IDEA and issue a written decision that addresses the allegations in the complaint.
13. A final report of the investigation will be issued to the complainant and LEA superintendent, board chairperson, and special education director. The report shall include but is not limited to the findings of fact, conclusions, reasons for the decision, and

any necessary corrective action(s) for each allegation within sixty (60) calendar days of receipt of a sufficient complaint. This time period may be extended, but only under exceptional circumstances, which shall be documented by the DR office or if the complainant and LEA agree to extend the time to engage in mediation or other alternative dispute resolution procedures.

14. If a violation of the IDEA is verified by the complaint investigator, the report shall include corrective actions addressing, as appropriate:
 - a. A remedy to address any denial of FAPE, which may include compensatory services, monetary reimbursement, or other corrective action as appropriate to meet the needs of the student;
 - b. Appropriate future provision of services for all students with disabilities; and
 - c. The provisions of technical assistance, including training, documentation of compliance, or written assurances, if needed.
15. The Idaho Department of Education will ensure the LEA takes the corrective action set forth in the final report no later than one year after the identification of non-compliance.
16. The Dispute Resolution office ensures any findings of noncompliance found as the result of a state administrative complaint investigation are corrected and verifies through review of documentation or interviews, or both, the corrective actions were implemented no later than one year (365 days) after the determination of noncompliance. If necessary, the Idaho Department of Education will use appropriate enforcement mechanisms such as the provision of technical assistance, conditions on funding, a corrective action, an improvement plan, and/or withholding funds, in whole or in part.
17. A complaint investigation report is final as of the date set forth in the report and is not subject to an appeal. A parent or LEA may file for a due process hearing regarding any concerns related to the identification, evaluation, educational placement, or provision of free appropriate public education (FAPE). Any corrective action requirements and timelines set forth in the complaint investigation report will continue to run even if a due process hearing is filed on the same issue(s).

4. Resolving State Complaints through Mediation

State complaints are a formal mechanism for addressing potential violations of the IDEA. While filing a state complaint initiates an investigation process, it does not preclude teams from continuing to collaborate and seek resolution. In fact, teams are strongly encouraged to work toward consensus whenever possible, maintaining open communication and a shared focus on the student's needs.

When the complainant is the parent of an individual student, even after a complaint is filed, parties may opt to engage in mediation—a voluntary process that supports problem-solving outside of a formal investigation.

1. Mediation will automatically be offered by the DR office to the parent and the LEA when the complaint involves an individual student.

2. The parent and the LEA may resolve all, part or none of the allegations in mediation. If an agreement is reached, the complainant will notify the DR office in writing of the parties' agreement. If an agreement is reached, the complainant may withdraw all or part of the complaint pursuant to the mediated agreement. The parent will inform the DR office of the withdrawal. When the DR office receives this notification, any resolved allegations will be dismissed from the state complaint. If all of the state complaint allegations are not resolved, the DR office will investigate the remaining allegations.
3. If mediation is not accepted by the parties or fails to resolve some or all the allegation(s) that gave rise to the complaint, the complaint investigation will continue as described above in Section C, State Complaint Procedures.

Section 5 4. Due Process Hearings

~~A. Definition~~

The Idaho Department of Education shall administer a single-tier due process administrative hearing system to resolve disputes between public agencies and parents/adult students. Idaho's due process system has two types of due process hearings: a regular due process hearing and an expedited due process hearing. A regular due process hearing request involves an allegation or a series of allegations by either a parent/adult student or a public agency (typically an LEA) on issues relating to the identification, evaluation, educational placement, or the provision of FAPE to a student. An expedited due process hearing request involves an allegation concerning discipline and/or placement related to discipline and results in an administrative hearing with an expedited timeline.

The due process hearing is presided over by a hearing officer assigned by the DR office. At the due process hearing, the parent/adult student and the district LEA may present evidence, cross examine witnesses, and present the case to the hearing officer. The hearing officer renders a written final decision on the merits of the issues relating to the due process hearing.

~~Mediation is available in an effort to resolve issues and parties may request mediation at any time. If mediation is rejected by either party, the due process hearing timelines will remain in effect.~~

~~B. Due Process Hearings and Expedited Due Process Hearings~~

~~Idaho's due process system has two types of due process hearings: a regular due process hearing and an expedited due process hearing.~~

- ~~1. A regular due process hearing is an administrative hearing to resolve disputes on any matter related to the identification, evaluation, educational placement, and the provision of FAPE.~~
- ~~2. An expedited due process hearing is an administrative hearing provided on an expedited timeline and is only available to resolve disputes concerning discipline and/or placement related to discipline.~~

Once a request for a due process hearing is filed with the Idaho Department of Education the DR office will not provide any information regarding the pending due process hearing to the parent/adult student or the public agency involved other than general information which accompanies the notification to the parties that a hearing officer has been assigned. The DR office will refer all inquiries or correspondence received from either party to the assigned hearing officer. Mediation is offered in an effort to resolve issues, and parties may request mediation at any time.

A. Definitions

All terms used in this section shall be interpreted in accordance with the definitions set forth in the Individuals with Disabilities Education Act (IDEA).

Administrative Hearing. A formal legal proceeding conducted by a government agency or an appointed official (called a hearing officer) to resolve disputes involving rules, regulations, or laws overseen by that agency.

Expedited Due Process Hearing. An administrative hearing provided on an expedited timeline that is only available to resolve disputes concerning discipline and/or placement related to discipline.

Hearing Officer. The individual assigned to conduct the impartial due process hearing procedures consistent with the IDEA.

Individuals with Disabilities Education Act (IDEA). The federal law that requires that all children with disabilities have available to them a free appropriate public education.

Local Education Agency (LEA). Idaho public school districts and charter schools are the LEAs within Idaho that oversee public elementary and secondary public schools.

Public Agency. The SEA and LEAs, including Idaho school districts and public charter schools and any other public subdivisions of Idaho that are responsible for providing education to children with disabilities.

Regular Due Process Hearing. An administrative hearing provided on a regular timeline that is available to resolve issues related to the identification, evaluation, educational placement, or the provision of FAPE to a student.

State Education Agency (SEA). The Idaho Department of Education is the SEA and is primarily responsible for the State supervision of public elementary and secondary schools.

B. General Administrative Hearing Procedures for Regular and Expedited Due Process Hearings

The following procedures shall be followed whenever a regular or expedited due process hearing is requested:

1. In the case of any conflict between these procedures and the IDEA, the IDEA shall supersede these procedures.
2. Where no provision is made by statute, rule, or these procedures, proceedings in due process hearings shall be in accordance with the practice usually followed in similar administrative cases, or as may be prescribed by the hearing officer or stipulated to by the parties. The assigned hearing officer shall apply the principles of fundamental fairness and due process to each situation.
3. The hearing procedures shall be liberally construed to secure the just, speedy, and inexpensive determination of IDEA due process hearings.

Single-Tier System

The Department shall administer a single-tier due process hearing system to resolve disputes between public agencies and parents/adult students.

Computation of Time

In computing any period of time set by the IDEA, the day of the event from which the period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or legal holiday.

The number of days identified shall be *calendar days*, unless otherwise specified.

Hearing Officer Assignment and Qualifications

Once a due process hearing request is received by the DR office, a hearing officer will be assigned in a timely manner. Hearing officers are selected from a list of specially trained, neutral, and impartial professionals. A list of qualifications for each hearing officer is kept by the DR office.

A hearing officer:

1. Shall not be an employee of the Idaho Department of Education or the LEA involved in the education or care of the student;
2. Shall not have a personal or professional interest that conflicts with the person's objectivity in the hearing;
3. Shall possess knowledge of, and the ability to understand, the provisions of the IDEA and federal and state regulations pertaining to the IDEA, and legal interpretations of the IDEA by federal and state courts;
4. Shall possess the knowledge and ability to conduct hearings in accordance with appropriate standard legal practice; and
5. Shall possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

A person who otherwise qualifies to conduct a due process hearing is not an employee of the Idaho Department of Education or a LEA solely because he or she is paid by the LEA to serve as a hearing officer.

Assigned hearing officers may discuss any procedural matter related to a proceeding, including interpretation and application of IDEA provisions, with any other hearing officer not assigned to the matter.

The hearing officer will be compensated at rates set by the Idaho Department of Education. The public agency (typically an LEA) that is a party to the hearing shall be responsible for compensating the assigned hearing officer and paying for the cost of a verbatim transcript of the hearing.

Hearing officers shall not be called to testify in due process hearings or civil proceedings regarding the due process hearings they have conducted, nor shall they be compelled to disclose the substance of any discussions that occurred during the due process hearing process.

Communications with an Assigned Hearing Officer

All communications that are intended to be part of an official record for a decision in a due process hearing must be filed with the assigned hearing officer, with a copy provided to the opposing party. Unless otherwise provided by statute, rule, order, or notice, documents are considered filed when received by the hearing officer, not when mailed or otherwise transmitted.

Disqualification of an Assigned Hearing Officer

No party shall have the right to disqualification of the assigned hearing officer without cause. If a hearing officer's disqualification is sought for cause, the assigned hearing officer's written decision shall include facts and reasons for the hearing officer's ruling on the motion to disqualify.

Assigned Hearing Officer's Scope of Authority

Assigned hearing officers have broad discretion to ensure that due process hearing procedures provide fundamental fairness to all parties involved in the hearing and are conducted in an orderly fashion. Additionally, assigned hearing officers have the following scope of authority pursuant to the IDEA:

1. Schedule cases assigned to the hearing officer, including authority to issue notices of prehearing conference and of hearing;
2. Compel the attendance of witnesses at the request of the either party;
3. Prohibit the introduction of any evidence at the hearing that has not been disclosed to the opposing party at least five (5) business days before the hearing;
4. Discretion to bar any party that fails to comply with the disclosure of all evaluations completed at least five (5) business days prior to the hearing from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party;

5. Authority to preside over and conduct hearings, accept evidence into the record, rule upon objections to evidence, and otherwise oversee the orderly presentations of the parties at hearing;
6. Open the hearing to the public at the request of the parent/adult student;
7. Upon the conclusion of a hearing, issue a written decision, including a narrative of the proceedings before the hearing officer and findings of fact, conclusions of law, and final order.

Assigned hearing officers do not have the authority to:

1. Order or grant discovery as may be provided for under the Idaho Administrative Procedure Act or the Idaho Rules of Civil Procedure.
2. Declare a statute or regulation unconstitutional.
3. Hear or decide issues beyond the scope of the IDEA.
4. Award costs or attorney fees.
5. Review or reconsider final orders made in other hearings.

Burden of Proof

The burden of proof is on the party requesting the due process hearing. A preponderance of evidence standard applies.

Attorney Representatives

Attorneys representing a party must have an active license to practice law in the state of Idaho. Attorneys not licensed in Idaho, but who are licensed in one or more other states, may request admission to the proceeding on a *pro hac vice* status by the assigned hearing officer consistent with Idaho State Bar Commission Rules.

Professional Conduct Required

Parties and their representatives are expected to conduct themselves in a professional, civil, and nondisruptive manner during the due process hearing proceedings. The hearing officer may take reasonable action to maintain order during the proceeding which in their judgment is necessary to ensure an expeditious, fair, and impartial proceeding.

Final Order Personally Identifiable Information

It is recommended that the hearing officer refer to witnesses by title or in some other fashion so as not to include the witnesses' names in the body of the decision. For convenience and to permit redaction of the decision for ultimate publication by the Idaho Education Department, a Personally Identifiable Information (PII) coversheet may be utilized to identify the witnesses by name and by the title or manner in which the witness is identified in the hearing officer's decision. The coversheet can then be removed from the hearing officer's decision by the DR Coordinator.

Final Order Content

The hearing officer's final order and decision shall include findings of fact and conclusions of law.

Notice of Appeal Rights

A final order issued by a hearing officer shall contain the following paragraph or substantially similar paragraph:

This is a final order. Any party aggrieved by the findings and decision herein has the right to bring a civil action with respect to the due process complaint notice requesting a due processing hearing under 20 USC 1415(i)(1). The action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. See 20 USC 1415(1)(2). An action for state court review shall be filed within twenty-eight (28) days from the date of issuance of the hearing officer's decision. Any action in federal district court shall be filed within forty-two (42) days from the date of issuance of the hearing officer's final decision and order.

Final orders must be served by the assigned hearing officer on all parties contemporaneously with the issuance of the final order.

Maintaining and Transmitting the Hearing Record

The hearing officer is responsible for maintaining the administrative record developed as a result of the request for a hearing.

The hearing record shall include all of the documents submitted by the parties, including the request for the due process hearing; responsive written notice; sufficiency objections; any prehearing motions and orders; proposed exhibit lists and exhibits, including exhibits offered or identified even if not made part of the record; proposed witness lists; transcript prepared by a court reporter; and any prehearing orders, rulings and final decision issued by the hearing officer.

The hearing officer shall prepare a transmittal of the record certifying that the record is complete and transmit the record to the DR Coordinator with the hearing officer's final decision. The transcript prepared by a court reporter may be transmitted separately.

The Department shall maintain the Transmittal of the Record, including the record and the transcript of each due process hearing.

Petition for Judicial Review

Any party aggrieved by the findings and decision made by the hearing officer has the right to bring a civil action with respect to the due process complaint notice requesting a due process hearing. The action may be brought in any Idaho court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

An action for state court review shall be filed within twenty-eight (28) days from the date of issuance of the hearing officer's decision. Any action in federal district court shall be filed

within forty-two (42) days from the date of issuance of the hearing officer's final decision and order.

C. Regular Due Process Hearings

Requirements for Filing a Regular Due Process Hearing

Regular due process hearing requests must include a complete and signed copy of the *Due Process Hearing Request Form* or a signed document providing all of the general information, issue(s), and resolution(s) information required in the *Due Process Hearing Request Form*. This includes the following information:

1. The name of the student.
2. The address of the residence of the student.
3. The name of the school the student is attending.
4. In the case of a homeless student, available contact information for the student, and the name of the school the student is attending.
5. A description of the nature of the problem related to the student regarding the proposed or refused initiation or change, including relevant facts; and
6. A proposed resolution of the problem to the extent known and available to the party at the time.

Reasonable accommodations will be provided for individuals who need assistance in filing a written request for a due process hearing.

A parent/adult student or public agency (or their attorney authorized to practice law in the state of Idaho) filing a due process hearing request must provide the request for due process hearing to the other party and to the Dispute Resolution office. The request shall be mailed, hand-delivered, or scanned and attached to an email with a signature of the filing party. All applicable timelines will start when the request has been received by the non-requesting party and the Idaho Department of Education.

Due Process Hearing Request from Parent/Adult Student

A due process hearing may be requested relating to the identification, evaluation or educational placement of a student with a disability, or the provision of FAPE to the student.

1. A due process hearing shall be initiated within two (2) years of the date the parent/adult student knew or should have known about the alleged action that forms the basis of the request for a due process hearing. The two-year timeline will not apply if the parent/adult student was prevented from requesting a hearing due to specific misrepresentations or the withholding of information by the public agency required to be provided by the IDEA.
2. If a parent/adult student disagrees with an IEP or placement change by the LEA a request for a due process hearing may be filed by the parent/student during which time the student shall remain in the current placement (stay put) unless otherwise agreed to by the LEA and parent/student.

3. Filing for a due process hearing cannot be used to delay the LEA from placing a student in an Interim Alternative Educational Setting (IAES).

Due Process Hearing Request from a Public Agency

If a public agency (typically a school district or charter school) initiates a hearing request, the public agency must inform the parent/adult student and the Idaho Department of Education. A public agency may initiate a due process hearing within two years of the alleged action. The public agency may not use the due process hearing procedures to override a parent's refusal to consent to initial placement of his or her child in special education.

Regular Due Process Prehearing Procedures

After a due process request is filed by the parent/adult student or a public agency:

1. The Dispute Resolution office offers mediation as a voluntary option to both parties. Parties may request mediation at any time. Participation in mediation shall not alter or delay the timeline of the due process hearing.
2. The receiving party may challenge the sufficiency of the due process hearing request if the receiving party believes the request for due process hearing does not meet all requirements. A challenge must be filed within fifteen (15) days of the receipt of the hearing request by filing a written sufficiency objection with the hearing officer. Challenges to the sufficiency of the request for due process hearing must be in writing and provided to all parties. A response to the sufficiency objection is not required and may not be considered by the hearing officer.
3. The hearing officer shall render a decision regarding the sufficiency of the allegation(s) in the request for a due process hearing within five (5) days and shall immediately notify the parties of the decision in writing.
 - a. If the request for a due process hearing is found insufficient, the party may amend its due process complaint only if the other party consents in writing to the amendment and has the opportunity to resolve the complaint through a resolution meeting, or the hearing officer grants permission to amend no later than five (5) days before the due process hearing begins.
 - b. Timelines for amended due process hearings begin again on the filing date of the amended request.
4. If the LEA has not previously sent written notice (as outlined in the IDEA) regarding the subject matter in the parent's/adult student's due process hearing request, the LEA must send the written notice to the parent/adult student (with a copy to the hearing officer) within ten (10) days of receiving the request for due process hearing, explaining the reasons why the LEA proposed or refused to take the action raised in the complaint, a description of other options the IEP team considered, and reasons why those options were rejected, a description of each evaluation procedure, assessment, record, or report the LEA used as the basis for the proposed or refused action and a description of the other factors relevant to the LEA's proposed or refused action. The written notice provided by

the LEA does not preclude the LEA from asserting that the parent's due process hearing request was insufficient, where appropriate.

5. The party receiving a request for due process hearing must, within ten (10) days of receiving the due process complaint, send to the other party a response with a copy to the hearing officer that specifically addresses the issues raised in the due process complaint. A written notice provided by the LEA to the parent within ten (10) days of receiving a parent's hearing request shall suffice as the LEA's response so long as the written notice specifically addresses all issues raised in the due process hearing request.
6. The public agency shall inform a parent/adult student of any free or low-cost legal or other relevant services available to him or her and provide a copy of the Procedural Safeguards when a due process hearing is requested or if the parent/adult student requests such information.
7. Within fifteen (15) days of receiving a request for due process hearing, the LEA shall convene a pre-hearing resolution session, unless both parties agree in writing to waive the resolution meeting, both parties agree to participate in mediation, or the LEA initiated the hearing.
 - a. A resolution meeting includes the parent/adult student, a representative of the public agency who has decision-making authority, and relevant members of the IEP team who have specific knowledge of the facts identified in the request for a due process hearing as determined by the parties.
 - b. The LEA's attorney shall not attend the resolution session unless the parent/adult student is accompanied by an attorney eligible to practice in Idaho.
 - c. The DR office will provide a meeting facilitator or mediator, if requested. Participation in facilitation or mediation requires consent by both parties.
 - d. The purpose of the resolution meeting is for the parent/adult student to discuss the due process hearing request, and the facts that form the basis of the request, so that the LEA has the opportunity to resolve the dispute that is the basis of the due process hearing request.
 - 1) If a resolution is reached regarding some or all of the issues raised in the request for a due process hearing, the LEA representative and the parent/adult student will sign a settlement agreement, which is a legally binding document enforceable in state and federal court. The parties will immediately forward to the hearing officer signed documentation of the voluntary withdrawal of some or all of the issues set forth in the due process hearing request by the requesting party.
 - 2) Either party may void the settlement agreement within three (3) business days of signing the agreement. In the event a settlement agreement reached through the resolution process is timely voided by a party, the due process hearing timelines continue to run.

- e. A due process hearing will be scheduled if a resolution was not reached on some or all of the hearing issues within thirty (30) days of receiving the request for a due process hearing, or earlier if the parties waived resolution.
- f. If the LEA is unable to obtain the participation of the parent/adult student in the resolution meeting after reasonable efforts have been made and documented, at the conclusion of the thirty (30) day resolution period the LEA may request that the hearing officer dismiss the parent's/adult student's due process hearing request.
- g. A parent/adult student may request an immediate due process hearing from the hearing officer if the LEA has not scheduled or participated in a resolution session within fifteen (15) days of the request.
- h. The LEA must report to the DR office and to the hearing officer when the resolution meeting is to be held, or provide documentation indicating it was waived by both parties, or provided documentation of attempts to reach the other party, within fifteen (15) days of the Idaho Department of Education receiving the due process hearing request.
- i. The hearing officer shall issue a written decision that includes findings of fact and conclusions of law within forty-five (45) days. The 45-day timeline for issuance of a written decision starts the day after one of the following events:
 - 1) Both parties agree in writing to waive the resolution meeting;
 - 2) After either the mediation or resolution meeting starts but before the end of the 30-day resolution period, the parties agree in writing that no agreement is possible; or
 - 3) If both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent/adult student or public agency withdraws from the mediation process; or
 - 4) The LEA files a due process hearing request which does not require the parties to participate in a resolution meeting.

All of the above events must be documented, including dates of determination, and provided to the DR office and the hearing officer immediately.

Regular Due Process Hearing Procedures

1. Hearing Preparation

- a. Prior to a resolution session or a due process hearing, a parent/adult student, or their representative, shall be allowed to inspect and review any education records related to the student that have been collected, maintained or used by the public agency. A public agency may charge a fee for copies of records if the fee does not effectively prevent a parent/adult student from exercising his or her right to inspect and review those records. A public agency may not charge a fee to search for or retrieve records.
- b. Not less than five (5) business days prior to a due process hearing, each party will disclose to all other parties: evaluations completed by that date and recommendations

based on those evaluations intended to be used at the hearings; copies of exhibits to be introduced; and a list of witnesses each party intends to call at the hearing.

- c. The hearing officer shall provide notification as to the time and place of the due process hearing to the parent/adult student, public agency officials, and the Idaho Department of Education. The hearing shall be conducted at a time and place reasonably convenient to the parent/adult student.
- d. Parties shall cooperate with the hearing officer in any business or communication and the planning for a location, date and time for the hearing.

2. The Due Process Hearing

- a. All parties to a due process hearing have the right to be accompanied and advised by legal counsel properly licensed in Idaho.
- b. A parent/adult student has the right to open the hearing to the public and to have the student who is the subject of the hearing present.
- c. Each party has the right to present evidence and to confront, cross-examine, and compel the attendance of witnesses.
- d. The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint unless the other party agrees otherwise.
- e. Any party may prohibit the introduction of any evidence at the hearing that was disclosed less than five (5) business days before the hearing.
- f. During the hearing the public agency will provide reasonable accommodations as required by federal law.
- g. The parent/adult student has the right to the record of the hearing and the findings of fact and decisions of the hearing officer provided at no cost to the parents. The LEA shall be responsible for the cost of the verbatim transcript and a copy of the transcript will be included in the record of the hearing.

3. Decision of the Hearing Officer

- a. The decision made by the hearing officer will be made on substantive grounds based on the record established at the hearing.
- b. In matters alleging a procedural violation, the hearing officer may find that a student did not receive FAPE only if there is evidence that the procedural inadequacies:
 - 1) impeded the student's right to FAPE;
 - 2) significantly impeded a parent's/adult student's opportunity to participate in the decision-making process; or
 - 3) caused a deprivation of educational benefit.
- c. If a hearing officer finds that there is a procedural deficiency that did not deny FAPE, he or she may order the LEA to comply with the procedural requirements.

- d. At the conclusion of a hearing, the hearing officer's decision shall be a final decision and shall include findings of fact and conclusions of law. In addition, the decision shall include an order of relief, if appropriate, and notice of the right to appeal.
- e. The hearing officer's written final decision shall be mailed, which may include postal or electronic, to the parties within forty-five (45) days after the expiration of the 30-day resolution process; or from the date both parties agreed in writing to waive the resolution meeting, or from the date both parties agreed to go to mediation, or from the date the public agency initiated the hearing. The hearing officer may grant specific extensions of time for the hearing officer's decision beyond the forty-five (45) day period upon the request of a party. The hearing officer shall issue a written decision in response to each request.
- f. The findings of fact and decision shall be mailed, which may include postal or electronic, at no cost. Copies will also be mailed to the public agency, superintendent, the DR Coordinator and other appropriate representatives of the public agency.
- g. A hearing officer's decision will be enforceable in state and federal court. It will be implemented not later than fourteen (14) days from the date of issuance unless:
 - 1) the decision specifies a different implementation date; or
 - 2) the parent/adult student or the LEA appeals the decision by initiating civil action in state or federal district court within applicable appeal periods.

Nothing in this section prevents a parent/adult student from filing a separate due process hearing request on an issue separate from the request already filed. The Idaho Department of Education may consolidate multiple hearing requests involving the same student.

4. Placement During a Regular Due Process Hearing

- a) During the pendency of any due process hearing, the student shall remain, or "stay put," in his or her current educational placement unless the LEA and parent/adult student agree otherwise.
- b) The stay put placement continues during any subsequent appeals unless a hearing officer agrees with a parent/adult student that a change of placement is appropriate, in which case, the placement identified in the hearing officer's decision becomes the stay-put placement.
- c) If the dispute involves an application for initial admission to public school in Idaho, the student, with the written consent of his or her parent, shall be placed in the public school until the completion of all the proceedings.
- d) If a student has been placed in an interim alternative educational setting (IAES) for disciplinary reasons, the student will remain in the IAES pending the decision of the hearing officer or until the expiration of the IAES time period, whichever occurs first, unless the parent and the LEA agree otherwise.
- e) Stay put does not apply when a student is transitioning from Part C (the Infant/Toddler Program) to Part B services [preschool to grade twelve (12)] because the student has turned three (3).

- i) With written consent of the parent, the student shall be placed in the public school until completion of all the hearing proceedings.
- ii) If the parent does not give written consent for the provision of special education and related services, the student will not receive services until completion of the hearing proceedings.
- iii) If the student is eligible for special education and related services, and the parent consents, the LEA shall provide those special education and related services which are not in dispute.

D. Expedited Due Process Hearing

An expedited due process hearing is defined as an administrative hearing to resolve disputes concerning discipline. Expedited due process hearings must occur within twenty (20) school days of the request, with a decision rendered within ten (10) school days of the hearing.

Requirements for Filing an Expedited Hearing Request

Parties filing expedited due process hearing requests must include a complete and signed copy of the *Expedited Due Process Hearing Request Form* or a signed document providing all of the general information, issue(s), and resolution(s) information required in the *Expedited Due Process Hearing Request Form*. This includes the following information:

1. The name of the student.
2. The address of the residence of the student.
3. The name of the school the student is attending.
4. In the case of a homeless student or youth, available contact information for the student, and the name of the school the student is attending.
5. A description of the nature of the problem related to student regarding the proposed or refused initiation or change, including relevant facts; and
6. A proposed resolution of the problem to the extent known and available to the party at the time.

Reasonable accommodations will be provided to individuals who need assistance in filing a written request.

All applicable timelines for an expedited due process hearing will start when the request has been received by the non-requesting party and the Department of Education.

Expedited Due Process Hearing Request from Parent/Adult Student

A parent/adult student may request an expedited hearing if:

1. They disagree with a determination that the student's behavior was not a manifestation of the disability; or

2. They disagree with the LEA's discipline decision which resulted in a change of placement.

Expedited Due Process Hearing Request from Public Agency

An LEA may request an expedited hearing if the LEA believes maintaining the current placement or returning the student to the prior placement is substantially likely to result in injury to the student or others. These hearing procedures may be repeated, if the LEA believes that returning the student to the original placement is substantially likely to result in injury to the student or others.

Expedited Due Process Hearing Procedures and Decision

An expedited hearing will be conducted in a fair and impartial manner. In the event a request for a due process hearing includes both issues for a regular due process hearing and issues for an expedited due process hearing, the hearing officer will separate any non-disciplinary issues from the disciplinary issues which require an expedited decision.

A separate hearing considering the non-disciplinary issues will comply with the regular due process hearing timelines. The hearing officer may consider the appropriateness of including the expedited hearing testimony in the regular due process hearing.

The procedures for an expedited hearing will be the same as those in a regular due process hearing, except for the following:

1. The DR Coordinator will appoint a hearing officer within five (5) business days of a request.
2. A resolution session shall occur within seven (7) days of receiving a due process hearing request unless the parties agree in writing to waive the resolution session or participate in mediation.
3. A due process hearing shall proceed unless the matter has been resolved to the satisfaction of both parties within fifteen (15) days of the receipt of the expedited due process hearing request.
4. There is no process for challenging the sufficiency of the due process hearing request in an expedited case.
5. The hearing shall occur within twenty (20) school days of the request, with a decision rendered within ten (10) school days of the hearing. No extensions of time may be granted by the hearing officer.
6. A party may appeal the decision in an expedited due process hearing following the same procedures for decisions in regular due process hearings.

Placement During an Expedited Due Process Hearing

When a hearing has been requested by either the parent/adult student or the LEA regarding placement decisions, the student shall "stay put" during the pendency of the hearing. In relation to disciplinary proceedings, stay put means:

1. the student will remain in the interim alternative educational setting (IAES) until the timeline for the disciplinary action expires or the hearing officer renders a decision, whichever occurs first; and/or
2. upon expiration of the IAES placement, the student will be placed in the setting he or she was in prior to the IAES. However, if LEA personnel maintain that it is dangerous for the student to return to that placement, the LEA may request an expedited hearing to continue the IAES for up to an additional forty-five (45) school days. This procedure may be repeated if determined necessary by the LEA.

If the hearing officer findings rule on behalf of the parent/adult student, the proposed change of placement cannot occur. The IEP team must determine the extent of services appropriate to meet the student's individual needs, as well as address the student's behavior. If the hearing officer finds for the LEA, the LEA may use the same disciplinary procedures, including expulsion, available for any other student, except that FAPE must be provided according to the disciplinary requirements outlined in IDEA.

See Chapter 11 for more information on disciplinary requirements under the IDEA.

If an educational placement dispute arises involving a child transitioning from Part C to Part B, the child cannot remain in Part C services when he or she is over the age of three (3). If the child is found eligible for special education and related services under Part B [beginning at age three (3)] and the parent consents to the initial provision of special education and related services, then the LEA shall provide those special education and related services that are not in dispute between the parent and the LEA until completion of all the hearing proceedings. If the parent does not give written consent for the special education or related services, the student will not receive services until completion of the hearing proceedings.

~~A. Filing a Due Process Hearing~~

~~Due process hearing requests must include a complete and signed copy of the *Due Process Hearing Request Form* or a signed document providing all of the general information, issue(s), and resolution(s) information required in the *Due Process Hearing Request Form*. Reasonable accommodations will be provided to individuals who need assistance in filing a written request.~~

~~A parent/adult student or public agency (or their attorney authorized to practice law in the state of Idaho) filing a due process hearing request must provide the due process hearing complaint to the other party and to the Dispute Resolution office. The request shall be mailed, faxed, hand delivered, or scanned and attached to an email with a signature of the filing party. All applicable timelines will start when the request has been received by the non-requesting party and the SDE.~~

1. ~~Due Process Hearing Request from Parent/Adult Student: A due process hearing may be requested on behalf of a student by a parent, adult student, or by an attorney, properly licensed in Idaho, representing the student.~~
 - a. ~~A due process hearing shall be initiated within two (2) years of the date the parent/adult student knew or should have known of the issues giving rise to the allegation(s). The two-year timeline will not apply if the parent/adult student was prevented from requesting a hearing due to specific misrepresentations or the withholding of information by the public agency required to be provided by the IDEA.~~
 - b. ~~A due process hearing can be initiated regarding issues pertaining to identification, evaluation, educational placement, or the provision of FAPE if the district proposes to initiate or change any of these matters, or if the district refuses the parent's/adult student's request to initiate or change any of these matters.~~
 - c. ~~If a parent/adult student disagrees with an IEP or placement change by the district and have filed a written objection to all or parts of the proposed IEP or change in placement in writing within ten (10) calendar days of receiving written notice of the proposed change, the district may not implement the amended IEP for 15 days, unless a request for a due process hearing is filed by the parent/student during which time the student shall remain in the current placement unless otherwise agreed by the district and parent/student. The written objection cannot be used to delay the district from placing a student in an Interim Alternative Educational Setting (IAES) or the implementation of an initial IEP.~~
2. ~~Due Process Hearing Request by a District: If the district initiates a hearing request, the district must inform the parent/adult student and the SDE. A district may initiate a due process hearing within two years of the dispute in an attempt to accomplish one or more of the following:~~
 - a. ~~override a parent's/adult student's refusal of consent for an initial evaluation or re-evaluation, or release of information;~~
 - b. ~~override a parent's/adult student's written objection to an IEP program change, an educational placement change, or disciplinary actions when there is an imminent threat to safety;~~
 - c. ~~the placement of a student in an Interim Alternate Education Setting (IAES) when there is substantial evidence that maintaining the current educational placement is likely to result in injury to the student or others;~~
 - d. ~~a determination whether an evaluation conducted by the district was appropriate or whether an evaluation obtained by a parent/adult student meets the criteria for a publicly funded Independent Educational Evaluation (IEE);~~
 - e. ~~a determination if a proposed IEP is appropriate even if the parent/adult student has not filed a formal objection, for example following a state complaint investigation.~~

~~B. Hearing Officer Appointment~~

- ~~1. The hearing officer shall be appointed within ten (10) calendar days of the SDE receiving the due process hearing request or within five (5) business days of an expedited hearing. Hearing officers are selected from a list of specially trained and impartial professionals. A list of qualifications for each hearing officer is kept by the DRC.~~
- ~~2. The hearing officer must not be a member of the district school board, an employee of the school district, or an employee of the SDE.~~
- ~~3. The hearing officer must not have a personal or professional interest that conflicts with the objectivity required of a hearing officer.~~
- ~~4. The hearing officer must be specially trained in conducting due process hearings, possess knowledge and understanding of the provisions of Idaho law, the IDEA, and judicial interpretations, and ability to conduct hearing and render and write decisions with appropriate, standard legal practice.~~
- ~~5. The district will pay for all actual expenses incurred by the hearing officer and for the cost of a verbatim transcript of the hearing, if requested by the parent. The hearing officer will be compensated at rates set by the SDE.~~

~~C. Due Process Hearing Policies~~

~~After a due process request is filed by the parent/adult student or the district, the following procedures will be followed.~~

- ~~1. The Dispute Resolution office offers mediation as a voluntary option to both parties. Parties may request mediation at any time. Choosing mediation shall not alter or delay the timeline of the due process hearing.~~
- ~~2. The receiving party may challenge the sufficiency of the due process hearing request within fifteen (15) days of the receipt of the hearing request by filing a written sufficiency objection with the hearing officer. Challenges to the sufficiency of the due process hearing complaint must be in writing and provided to all parties. The hearing officer shall render a decision regarding the sufficiency of the allegation(s) within five (5) calendar days and immediately notify the parties of the decision in writing.~~
 - ~~a. If the complaint is found not to be sufficient, the party may amend its due process complaint if the other party consents in writing to the amendment and has the opportunity to resolve the complaint through a resolution meeting, or the hearing officer grants permission to amend no later than five (5) days before the due process hearing begins.~~
 - ~~b. Timelines for amended due process hearings begin again on the filing date of the amended request.~~

- ~~3. If the district has not previously sent written notice (as outlined in IDEA) regarding the subject matter in the parent's/adult student's complaint, the district must, within ten (10) calendar days of receiving the request, send the response to the parent/adult student a letter explaining the reasons behind their actions, options considered, evaluations conducted, and other factors relevant to the district's response, in accordance with IDEA prior written notice requirements.~~
- ~~4. The district shall inform a parent/adult student of any free or low-cost legal or other relevant services available to him or her and provide a copy of the Procedural Safeguards if a due process hearing is requested or if the parent/adult student requests such information.~~
- ~~5. Within fifteen (15) days of receiving the parent's/adult student's due process hearing request, the district convenes a pre-hearing resolution session, unless both parties agree in writing to waive the resolution meeting, both parties agree to go to mediation, or the district initiates the hearing.~~
 - ~~a. A resolution meeting includes parent/adult student, a representative of the district who has decision-making authority, and relevant members of the IEP team who have specific knowledge of the facts identified in the request for a due process hearing as determined by the parties.~~
 - ~~b. The district's attorney shall not attend the resolution session unless the parent/adult student will be accompanied by an attorney.~~
 - ~~c. The DRC will provide a contractor specially trained in facilitating a resolution session or a contracted mediator, if requested. Either process requires approval by both parties.~~
 - ~~d. The purpose of the meeting is for the parent/adult student to discuss the due process hearing request, and the facts that form the basis of the request, so that the district has the opportunity to resolve the dispute.~~
 - ~~1. If a resolution is reached regarding the issues raised in the request for a due process hearing, the district representative and the parent/adult student will sign a settlement agreement, a legally binding document enforceable in state and federal court. The parties will immediately forward to the hearing officer signed documentation of the voluntary withdrawal of the due process hearing complaint by the requesting party.~~
 - ~~2. Either party may void this agreement within three (3) business days of signing the agreement.~~
 - ~~e. A due process hearing will be scheduled if no resolution is reached within thirty (30) calendar days of receiving the request for a due process hearing.~~
 - ~~f. If the district is unable to obtain the participation of the parent/adult student after reasonable efforts have been made and documented, at the conclusion of the thirty (30) calendar day resolution period the district may request that the hearing officer dismiss the parent's/adult student's due process hearing request.~~

- ~~g. A parent/adult student may request an immediate due process hearing from the hearing officer if the district has not scheduled or participated in a resolution session within fifteen (15) days of the request.~~
 - ~~h. The district must report to the DRC and to the hearing officer when the resolution meeting is to be held, or provide documentation indicating it was waived by both parties, or provided documentation of attempts to reach the other party, within fifteen (15) days of SDE receiving the due process hearing request.~~
- ~~6. The forty five (45) day timeline for the due process hearing request starts the day after one of the following events:~~
- ~~a. both parties agree in writing to waive the resolution meeting;~~
 - ~~b. after either the mediation or resolution meeting starts but before the end of the thirty (30) day period, the parties agree in writing that no agreement is possible;~~
 - ~~c. both parties agree in writing to continue the mediation at the end of the thirty (30) day resolution period, but later, the parent/adult student or public agency withdraws from the mediation process; or~~
 - ~~d. the district files a hearing request.~~

~~All of the above events must be documented, with dates of determination, and provided to the DRC and the assigned hearing officer immediately.~~

~~D. The Due Process Hearing~~

~~1. Hearing Preparation~~

- ~~a. A parent/adult student will be allowed to inspect and review reports, files, and records pertaining to the student prior to a resolution session or due process hearing. A district may charge a fee for copies of records if the fee does not effectively prevent a parent/adult student from exercising his or her right to inspect and review those records. The district may not charge a fee to search for or retrieve records.~~
- ~~b. A due process hearing will be scheduled if no resolution is reached within thirty (30) calendar days of receiving the request for a due process hearing.~~
- ~~c. If the district is unable to obtain the participation of the parent/adult student after reasonable efforts have been made and documented, at the conclusion of the thirty (30) calendar day resolution period the district may request that the hearing officer dismiss the parent's/adult student's due process hearing request.~~
- ~~d. A parent/adult student may request an immediate due process hearing from the hearing officer if the district has not scheduled or participated in a resolution session within fifteen (15) days of the request.~~
- ~~e. The district must report to the DRC and to the hearing officer when the resolution meeting is to be held, or provide documentation indicating it was~~

~~waived by both parties, or provided documentation of attempts to reach the other party, within fifteen (15) days of SDE receiving the due process hearing request.~~

~~2. The forty-five (45) day timeline for the due process hearing request starts the day after one of the following events:~~

- ~~a. both parties agree in writing to waive the resolution meeting;~~
- ~~b. after either the mediation or resolution meeting starts but before the end of the thirty (30) day period, the parties agree in writing that no agreement is possible;~~
- ~~c. both parties agree in writing to continue the mediation at the end of the thirty (30) day resolution period, but later, the parent/adult student or public agency withdraws from the mediation process; or~~
- ~~d. the district files a hearing request.~~

~~All of the above events must be documented, with dates of determination, and provided to the DRC and the assigned hearing officer immediately.~~

~~E. The Due Process Hearing~~

~~1. Hearing Preparation~~

- ~~a. A parent/adult student will be allowed to inspect and review reports, files, and records pertaining to the student prior to a resolution session or due process hearing. A district may charge a fee for copies of records if the fee does not effectively prevent a parent/adult student from exercising his or her right to inspect and review those records. The district may not charge a fee to search for or retrieve records. Choose an electronic verbatim record instead. If transcribed, the district will pay the transcription costs, and a copy of the transcript will remain with the SDE.~~

~~2. Decision of the Hearing Officer~~

- ~~a. The decision of the hearing officer will be based solely on presentations made at the due process hearing.~~
- ~~b. The decision made by the hearing officer will be made on substantive grounds based on a determination of whether a student received FAPE.
 - ~~1. In matters alleging a procedural violation, a hearing officer may find that a student did not receive FAPE only if there is evidence that the procedural inadequacies:
 - ~~i. impeded the student's right to FAPE;~~
 - ~~ii. significantly impeded a parent's/adult student's opportunity to participate in the decision-making process; or~~
 - ~~iii. caused a deprivation of educational benefit.~~~~
 - ~~2. If a hearing officer finds that there is a procedural deficiency that did not deny FAPE, he or she may order the district to comply with the procedural requirements.~~~~
- ~~c. The hearing officer's decision will include findings of fact and conclusions of law. In addition, the decision shall include an order of relief, if appropriate.~~

- ~~d. The hearing officer's written decision shall be mailed within forty-five (45) calendar days from the date both parties agreed in writing to waive the resolution meeting, or both parties agreed to go to mediation, or the date the district initiated the hearing. The hearing officer may grant an extension of the forty-five (45) day period upon the request of a party. The hearing officer shall issue a written decision in response to each request.~~
- ~~e. The findings of fact and decision shall be sent to the parent/adult student at no cost. Copies will also be mailed to the district superintendent, the DRC, and representatives of the district.~~
- ~~f. A hearing officer's decision will be enforceable in state and federal court. It will be implemented not later than fourteen (14) calendar days from the date of issuance unless:
 - ~~1. the decision specifies a different implementation date; or~~
 - ~~2. either party appeals the decision by initiating civil action in state or federal district court within applicable appeal periods.~~~~
- ~~g. Nothing in this section can be interpreted to prevent a parent/adult student from filing a separate due process hearing request on an issue separate from the request already filed. The SDE may consolidate multiple hearing requests involving the same IEP.~~
- ~~h. Stay Put
 - ~~1. During the pendency of any due process hearing, the student shall remain, or "stay put," in his or her current educational placement unless the district and parent/adult student agree otherwise.~~
 - ~~2. The stay put placement continues during any subsequent appeals unless a hearing officer agrees with a parent/adult student that a change of placement is appropriate, in which case, the placement identified in the hearing officer's decision becomes the stay put placement.~~
 - ~~3. If the dispute involves an application for initial admission to public school in Idaho, the student, with the written consent of his or her parent, shall be placed in the public school program until the proceedings are completed.~~
 - ~~4. "Stay put" does not apply when a student is transitioning from Part C (the Infant/Toddler Program) to Part B services in Idaho. Following the development of an IEP or an individual family service plan (IFSP), if an educational placement dispute arises involving a student transitioning from Part C to Part B, the student cannot "stay put" in Part C.
 - ~~i. With written consent of the parent, the student shall be placed in the public school until completion of all the hearing proceedings.~~
 - ~~ii. If the parent does not give written consent, the student will not receive services until completion of the hearing proceedings.~~
 - ~~iii. If the student is eligible for special education and related services, and the parent consents, then the district shall provide those special education and related services which are not in dispute.~~~~~~

~~Section 6. Expedited Due Process Hearings~~

~~A. Definition~~

~~An expedited due process hearing is defined as an administrative hearing to resolve disputes concerning discipline occurring within twenty (20) school days of the request, with a decision rendered within ten (10) school days of the hearing.~~

~~B. Filing an Expedited Hearing Request~~

~~Parties filing expedited due process hearing requests must include a complete and signed copy of the *Expedited Due Process Hearing Request Form* or a signed document providing, in the same order, all of the general information, issue(s), and resolution(s) information required in the *Expedited Due Process Hearing Request Form*. Reasonable accommodations will be provided to individuals who need assistance in filing a written request.~~

- ~~1. A district may request an expedited hearing if the district believes maintaining the current placement or returning the student to the prior placement is substantially likely to result in injury to the student or others.~~
- ~~2. A parent/adult student may request an expedited hearing if:
 - a. he or she disagrees with a determination that the student's behavior was not a manifestation of the disability; or
 - b. he or she disagrees with the district's discipline decision, which resulted in a change of placement.~~

~~A parent/adult student or district filing an expedited due process hearing request must provide, in a confidential manner, the due process complaint and request for hearing to the other party. The request shall be mailed, faxed, or hand delivered (electronic copies are not accepted). The party filing an expedited due process hearing must be able to show proof of receipt of the expedited due process hearing request by the other party. Additionally, when the request is provided to the non-requesting party, the party filing the request shall simultaneously send a written copy to the DRC by mail, fax, hand delivery, or scanned and attached to an email with a signature of the filing party. All applicable timelines for expedited due process hearing will start when the request has been received by the non-requesting party.~~

~~C. The Expedited Hearing Process and Decision~~

~~An expedited hearing will be conducted in a fair and impartial manner. Guidelines and proceedings will be the same as those in a regular due process hearing, except for the following changes:~~

- ~~1. The DRC will appoint a hearing officer within five (5) business days of a request.~~
- ~~2. A resolution session shall occur within seven (7) days of receiving a due process hearing request unless the parties agree in writing to waive the resolution session or go to mediation.~~
- ~~3. A due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within fifteen (15) days of the receipt of the expedited due process hearing request.~~

- ~~4. There is no process for challenging the sufficiency of the due process hearing request in an expedited case.~~
- ~~5. Any party may prohibit the introduction of any evidence at the hearing that was not disclosed at least five (5) business days before the hearing.~~
- ~~6. The hearing shall occur within twenty (20) school days of the request, with a decision rendered within ten (10) school days of the hearing and no extensions may be granted by the hearing officer.~~
- ~~7. A written decision will be mailed to both parties by the Dispute Resolution office.~~
- ~~8. A party may appeal the decision in an expedited due process hearing in the same way as allowed for decisions in other original due process hearings.~~

~~D. Placement During an Expedited Hearing~~

~~When a hearing has been requested by either the parent/adult student or the district regarding placement decisions, the student shall “stay put” during the pendency of the hearing. In relation to disciplinary proceedings, stay put means:~~

- ~~1. the student will remain in the IAES until the timeline for the disciplinary action expires or the hearing officer renders a decision, whichever occurs first; and/or~~
- ~~2. upon expiration of the IAES placement, the student will be placed in the setting he or she was in prior to the IAES. However, if district personnel maintain that it is dangerous for the student to return to that placement, the district may request an expedited hearing to continue the IAES for up to an additional forty-five (45) school days. This procedure may be repeated as necessary.~~

~~If the hearing officer findings are in favor of the parent/adult student, the change of placement cannot occur. The IEP team will need to determine the extent of services appropriate to meet the student’s individual needs, as well as address the student’s behavior. If the hearing officer finds for the district, the district may use the same disciplinary procedures, including expulsion, available for any other student, except that FAPE must be provided according to the requirements in Chapter 12, Section 3.~~

~~If an educational placement dispute arises involving a child transitioning from Part C to Part B, the child cannot remain in Part C services when he or she is over the age of three (3). If the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of special education and related services, then the school district shall provide those special education and related services that are not in dispute between the parent and district until completion of all the hearing proceedings. If the parent does not give written consent for the special education or related services, the student will not receive services until completion of the hearing proceedings.~~

~~Section 7. Appeals and Civil Action~~

~~An action for state court review shall be filed within twenty-eight (28) days from the date of issuance of the hearing officer's decision; any action in federal district court shall be filed within forty-two (42) calendar days from the date of issuance of the hearing officer's decision.~~

~~A party must exhaust administrative remedies before initiating a civil action under IDEA unless otherwise determined by the court. However, nothing in the IDEA restricts or limits the rights, procedures, and remedies available under the U.S. Constitution, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, or other federal laws protecting the rights of children with disabilities.~~

~~Section 8. Attorney Fees~~

~~An IDEA hearing officer appointed by the DRC does not have the authority to consider or award attorney fees. Only a state or federal district court will have has jurisdiction in to consider an award the awarding, determination, or prohibition of attorney fees in and IDEA matter.~~

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CHAPTER ~~10-14~~: ~~IMPROVING RESULTS~~-IDAHO DEPARTMENT OF EDUCATION'S GENERAL SUPERVISION SYSTEM REQUIREMENTS

This chapter identifies the Idaho Department of Education's responsibilities for supervising and monitoring LEAs' implementation of the IDEA. These responsibilities include focusing ~~reflects the changes in the IDEA that focus~~ on improving educational results and functional outcomes for all students with disabilities, analyzing and reporting data to the public, and ensuring that personnel who work with students with disabilities are ~~qualified. prepared to meet their unique needs.~~

Section 1. Department's General Supervision System

The Idaho Department of Education is responsible for the general supervision and oversight of IDEA compliance in Idaho. The Idaho Department of Education is responsible for ensuring that IDEA provisions are carried out, and that each educational program for students with disabilities administered within Idaho, including each program administered by other State agencies or LEAs, is under the general supervision of the persons responsible for educational programs for students with disabilities and meets Idaho educational standards.

The Idaho Department of Education is responsible for creating and implementing a general supervision system, which includes, at a minimum, the following eight (8) integrated components:

1. Integrated monitoring activities;
2. Data on processes and results;
3. The State Performance Plan/Annual Performance Report (SPP/APR);
4. Fiscal management;
5. Effective dispute resolution;
6. Targeted technical assistance and professional development;
7. Policies, procedures, and practices resulting in effective implementation; and
8. Improvement, correction, incentives, and sanctions.

Idaho has established and maintains an advisory panel, known as the Special Education Advisory Panel (SEAP), for the purpose of providing policy guidance with respect to special education and related services for students with disabilities. Members of SEAP serve at the discretion of the State Superintendent of Public Instruction. Membership requirements are defined by IDEA and a majority of members (51%) of the panel shall be individuals with disabilities or parents of students with disabilities [birth through age twenty-six (26)].

Section ~~1~~ 2. Integrated Monitoring Activities ~~Priorities and Indicators~~

In fulfilling its general supervision responsibilities, and as a condition of receiving IDEA funds, the Idaho Department of Education must monitor LEAs in each of the following priority areas:

1. The provision of FAPE in the least restrictive environment (LRE);
2. General supervision, including effective monitoring within the LEA;
3. Child find;
4. A system of transition services, including for early child and secondary transition;
5. The use of resolution meetings as part of due process hearings;
6. Mediation; and
7. Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.

Monitoring of all LEAs will occur within a reasonable period of time and at least once within a six-year period. However, when the Idaho Department of Education becomes aware of an “area of concern” or credible allegation regarding an IDEA policy, practice or procedure within an LEA, it must conduct due diligence in a timely manner to address the area of concern and reach a conclusion in a reasonable amount of time.

If the Idaho Department of Education determines that an LEA is out of compliance with an applicable IDEA requirement, a written notification of noncompliance will be issued, unless the LEA immediately corrected the noncompliance, and the Idaho Department of Education is able to verify the correction before it issues a finding.

The Idaho Department of Education must use the threshold of 100 percent compliance when determining an LEA’s compliance with IDEA requirements. Compliance and verification of compliance must occur as soon as possible, but no later than one year (365 days) after the Idaho Department of Education’s written notification of noncompliance. Compliance includes addressing the extent and cause of the identified noncompliance, in addition to ensuring student-specific and systemic corrections occur.

In those instances when the Idaho Department of Education has identified student-specific noncompliance, it will verify correction by reviewing each individual case (not a subset or sample) of previously noncompliant files, records, data files or whatever data source was used to identify the original noncompliance, to verify correction by the LEA of student-specific noncompliance, unless the student is no longer within the jurisdiction of the LEA, and no outstanding corrective action exists under a State complaint or due process hearing decision for the student.

In some cases, monitoring activities may require system-level verification. System-level verification refers to the process of ensuring that an LEA has addressed and improved its practices related to the identified area(s) of noncompliance. This is done through a review of

subsequent evidence and documentation to demonstrate that the LEA has implemented corrective actions and improved practices across their system. The purpose of system-level verification is to confirm that the LEA has made necessary adjustments to prevent recurrence within the system.

A. Results Driven Accountability (RDA) Monitoring System

~~The Idaho State Department of Education (SDE) is responsible for the design and implementation of a system of general supervision that monitors the fulfillment of the Individuals with Disabilities Education Act (IDEA) of 2007.~~ The activities under the Idaho Special Education Results Driven Accountability (RDA) Monitoring System monitor LEAs for results and compliance. Based on ~~stakeholder~~ educational partner input, the monitoring system includes a focus on providing supports to LEAs to meet the requirements of IDEA.

The Guiding Principles of the Results Driven Accountability Monitoring System are:

1. Improving educational results and functional outcomes for all students with disabilities; and ensuring that Idaho meets the ~~program required by~~ requirements of IDEA, with a ~~particular~~ emphasis on those requirements that are most closely related to improving education results for students with disabilities.
- ~~2.~~ The RDA Monitoring System provides the framework for the ~~SDE~~ Idaho Department of Education to partner with LEAs to be mutually responsible for improving educational results and functional outcomes for all students with disabilities, ~~student outcomes~~ and is designed to guide and support ~~districts~~ LEAs in their pursuit of preparing students with disabilities to persevere in life and be ready for postsecondary opportunities. ~~college and careers. To meet the general supervision requirements, the SDE will conduct an annual review of each LEA's performance on a pre-identified set of results and compliance indicators and special conditions areas. Data from the annual review will be compiled into the RDA Determination Report.~~
3. The ~~district~~ LEA is required to submit timely and accurate data from which the ~~district's~~ LEA's performance will be calculated based on the indicators in the ~~Idaho's~~ Idaho Department of Education's State Performance Plan, posted online annually on the ~~SDE~~ Idaho Department of Education website.

B. ~~SDE Responsibility~~ LEA Determinations

~~As part of the SDE general supervision responsibilities, the SDE is required to collect, review, and analyze data on an annual basis to determine if the state and districts are making progress toward the required performance goals. This accountability process includes:~~

To meet general supervision requirements, the Idaho Department of Education annually reviews each LEA's performance on a preidentified set of results, compliance indicators, and special conditions areas. Data from the annual review is compiled into the LEA Determination Report.

Idaho has developed four Differentiated Levels of Support to meet the needs of LEAs and improve educational results and functional outcomes for all students with disabilities. LEAs are placed into one of four Differentiated Levels of Support according to the LEA's score on their LEA Determination Report:

1. Meets Requirements: Level 1 – Supporting and Guiding,
2. Needs Assistance: Level 2 – Assisting and Mentoring,
3. Needs Intervention: Level 3 – Directing, and
4. Needs Substantial Intervention: Level 4 – Intervening.

The Idaho Department of Education is required to take certain enforcement actions based on the level of determination each LEA receives. These actions may include technical assistance; a corrective action plan; conditions on funding of an LEA; and/or withholding funds, in whole or in part. The determination process includes:

1. ensuring the data provided and reported by LEAs to the Idaho Department of Education is timely and accurate;
2. measuring performance on goals ~~both~~ for the ~~state~~-State and the ~~districts~~-LEAs;
3. monitoring based on ~~district~~ LEA result and compliance data with the IDEA, and progress made toward meeting ~~state~~-State goals;
4. identifying ~~districts~~ LEAs in one of the following ~~RDA~~-Determination categories: Meets Requirements, Needs Assistance, Needs Intervention, ~~or~~ Needs Substantial Intervention;
5. identifying ~~districts~~ LEAs in of the following Differentiated Levels of Support categories: ~~Support~~-Supporting and Guiding, Assisting and Mentoring, Directing, ~~or~~ Intervening;
6. providing professional development and technical assistance statewide and targeted technical assistance to ~~districts~~ LEAs demonstrating the highest needs;
7. reporting to the public on the ~~state~~-State's and ~~districts'~~ LEAs' performance on ~~state~~-State goals; and
8. developing and submitting an Annual Performance Report/State Performance Plan, as needed, to address ~~state~~-State performance on required goals.

C. Fiscal Monitoring ~~District Responsibility~~

The Idaho Department of Education's IDEA general supervision responsibility must be read with other Federal monitoring requirements, including fiscal monitoring. The Idaho Department of Education IDEA Part B Fiscal Accountability Office conducts federal fiscal grant subrecipient monitoring and compliance reviews and implements related corrective actions for associated noncompliance. The Fiscal Accountability Office incorporates best practices and standards and

follows the requirements set forth in 2 CFR Part 200 Uniform Grant Guidance, 34 Part 76 Education Department General Administrative Regulations (EDGAR) and 34 CFR Part 300 Assistance to States for the Education of Children with Disabilities.

The Fiscal Accountability Office conducts an annual fiscal risk assessment in conjunction with a cyclical monitoring cohort of LEAs. Monitoring staff employ a thorough rubric to determine and issue findings. Each LEA is subject to fiscal monitoring no less than once every five years. Reimbursement requests for IDEA Part B funding require documentation for review and cost allocability throughout the year for all LEAs. MOE eligibility and compliance testing, excess cost reporting, supplement not supplant crosscutting measures, applicable Private School Proportionate Share, and CEIS and CCEIS compliance reporting are conducted annually through the IDEA Part B Application for funding.

As a condition for receiving IDEA Part B funds, the LEA shall provide assurance in the IDEA Part B Application that the school board or board of trustees has adopted the most current version of this Manual.

~~Progress on the state's performance goals is directly linked to the districts' efforts and progress in these same areas. On an annual basis and as part of the SDE's general supervision and accountability, the district shall:~~

- ~~1. ensure the data it collects and reports to the SDE regarding special education students and personnel is accurate;~~
- ~~2. use data-based decision-making procedures to review and analyze data to determine if the district is making adequate progress toward performance goals; and~~
- ~~3. adjust strategies, as needed, to meet goals and improve student outcomes.~~

Section ~~2-3~~. Comprehensive ~~Coordinated~~ Early Intervening Services (CEIS) ~~& Comprehensive Coordinated Early Intervening Services (CCEIS)~~

Coordinated early intervening services (CEIS) are services to help students who need additional academic or behavioral support to be successful in school. The activities for CEIS must align with allowable uses under IDEA and adhere to the regulations outlined in the Office of Management and Budget (OMB) Uniform Grant Guidance. Under the OMB Uniform Grant Guidance, costs must be necessary, reasonable, allocable, and adequately documented. LEAs must use generally acceptable accounting principles to document expenditure of funds.

A. Voluntary Coordinated Early Intervening Services (CEIS)

Under the IDEA, the ~~district~~ LEA may use up to 15% of its IDEA Part B allocation in any fiscal year to provide ~~coordinated comprehensive~~ early intervening services (CEIS) for students in kindergarten through grade twelve (12), ~~(with a particular emphasis on students in kindergarten through grade three (3) who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment.~~

These funds may be used for activities that include:

1. Professional development for teachers and other school staff to enable such personnel to deliver ~~scientifically~~ evidence-based academic and behavioral interventions, including ~~scientifically~~ evidence-based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and
2. Providing educational and behavioral evaluations, services, and supports, including ~~scientifically~~ evidence-based literacy instruction.

~~Should a district be found in having significant disproportionality as provided under Part B, the district shall use 15% of its IDEA Part B allocations to provide comprehensive coordinated early intervening services.~~

B. Fiscal Requirements for CEIS

If the ~~district~~ LEA chooses to use IDEA Part B funds in any fiscal year to provide voluntary CEIS, the ~~district~~ LEA will budget the amount used to provide these services, up to a maximum of 15% of the total allocation, in the Part B budget that is submitted annually to the ~~SDE~~ Idaho Department of Education as part of the Part B and Preschool Application.

LEAs taking the Maintenance of Effort (MOE) adjustment may be limited in the amount of CEIS funds they can reserve. The combined amount taken for both voluntary CEIS and the LEA MOE adjustment cannot exceed the maximum amount available for CEIS or the maximum amount available for the LEA MOE adjustment.

C. Reporting Requirements for CEIS

Fiscal and LEA student data must be reported by states to the U.S. Department of Education for CEIS. LEAs must be able to collect and report the data according to federal and ~~state~~ State requirements when planning for and implementing CEIS services.

When the LEA uses IDEA Part B funds to provide CEIS, an annual report shall be submitted through the IDEA Part B Application for funding to the Idaho Department of Education including:

1. The number of students who received CEIS; and
2. The number of students who received CEIS and subsequently receive special education and related services during the preceding two (2) year period.

D. Relationship between FAPE and CEIS

CEIS provided by the ~~district~~ LEA shall not be construed to either limit or create a right to FAPE under the IDEA or to delay appropriate evaluation of a student suspected of having a disability.

Section 4. Comprehensive Coordinated Early Intervening Services (CCEIS)

The Idaho Department of Education must determine annually whether each LEA has a significant racial or ethnic disproportionality in the identification of students for special education services, including the identification of students as students with disabilities in one of six common categories; the placement of those students; and the disciplinary removal of those students from their placements. LEAs with significant disproportionalities must reserve 15 percent of their total IDEA Section 611 and Section 619 funds to implement CCEIS. These CCEIS funds must be used to identify and address the root causes of the LEA's disproportionalities. CCEIS can be used for students with and without disabilities from age three (3) through grade twelve (12), particularly, but not exclusively, students in those racial/ethnic groups who were significantly overrepresented with respect to identification, placement, or discipline.

A. Fiscal Requirements for CCEIS

Should an LEA be found to have significant disproportionality as provided under Part B, the LEA shall use fifteen (15) percent of its IDEA Part B allocations to provide comprehensive coordinated early intervening services (CCEIS). Exactly fifteen (15) percent of the LEA's total Section 611 and Section 619 subgrants shall be calculated, reserved, and used. The Idaho Department of Education calculates the amount to be reserved for CCEIS, capturing the total LEA allocation (Sections 619 and 611) and multiplying by fifteen (15) percent. The funds may be reserved from either or both subgrants, but the total reserved must equal exactly fifteen (15) percent of the total of those two subgrants. The reserved funds must be used only for CCEIS for the full period of their availability.

Under IDEA's LEA MOE requirement, LEAs are required to maintain their level of year-to-year expenditures on special education and related services, using local-only funds or state and local funds. IDEA includes a provision that allows eligible LEAs to reduce their required level of effort by 50 percent of the increase (if any) in their annual Section 611 allocation. However, there are restrictions on this flexibility. LEAs implementing CCEIS cannot take an MOE adjustment to their state and local spending in a fiscal year in which they are required to use CCEIS funds.

CCEIS funds must be used to identify and address the factors and any policy, practice, or procedure that the LEA identifies as contributing to its significant disproportionality. It is the LEA's responsibility to determine the contributing factors, or root causes, for its situation. IDEA lists some possible factors, including:

1. a lack of access to evidence-based instruction;
2. economic, cultural, or linguistic barriers to appropriate identification or placement in particular educational settings;
3. inappropriate use of disciplinary removals;
4. lack of access to appropriate diagnostic screenings;
5. differences in academic achievement levels; and

6. policies, practices, or procedures that contribute to the significant disproportionality.

A root cause analysis and the action planning process should be conducted and can be supported with CCEIS funds.

A Budget Requirements

~~If the district chooses to use IDEA Part B funds in any fiscal year to provide CEIS, the district will budget the amount used to provide these services, up to a maximum of 15% of the total allocation, in the Part B budget that is submitted annually to the SDE as part of the Part B and Preschool Application.~~

B. Reporting Requirements for CCEIS

Fiscal and LEA student data must be reported by states to the U.S. Department of Education for CCEIS. LEAs must be able to collect and report the data according to federal and state requirements when planning for and implementing CCEIS services.

When the ~~district~~ LEA uses IDEA Part B funds to provide CCEIS, an annual report shall be submitted through the IDEA Part B Application for funding to the ~~SDE~~ Idaho Department of Education ~~on~~ including:

1. The number of ~~children~~ students who received CCEIS; and
2. The number of ~~children~~ students who received CCEIS and subsequently receive special education and related services during the preceding two (2) year period.

C Relationship between FAPE and CEIS

~~CEIS provided by the district shall not be construed to either limit or create a right to FAPE under the IDEA or to delay appropriate evaluation of a student suspected of having a disability.~~

Section ~~3~~ 5. Personnel

The ~~district~~ LEA shall ensure that personnel working with students with disabilities meet the qualifications established by the ~~SDE~~ Idaho Department of Education and have the content knowledge and skills to meet the needs of these students.

A. Appropriate Certification or Licensure

Public school personnel shall meet the appropriate certification or licensure requirements for position assignments. Complete certification standards for personnel providing special education or related services may be found ~~in the handbook titled Idaho Standards for the Initial Certification of Professional School Personnel. This handbook is available from the SDE Certification and Professional Standards Department.~~ by visiting the Certification and Professional Standards webpage of the Idaho Department of Education's website.

Some special education and related services positions may require individuals to be certificated

by the Idaho Department of Education and meet additional licensure requirements in their area of expertise, to be certificated by the Idaho Department of Education, or to meet licensure or certification requirements in their respective professions or areas of expertise without a requirement for certification by the Idaho Department of Education.

An emergency provisional certificate and the public charter school-specific teacher certificate cannot be used as an alternative for individuals to become certificated special education teachers in Idaho. The LEA shall use the alternative authorization options to request alternative endorsement/certification when a professional position cannot be filled with someone who holds the appropriate endorsement/certification.

~~The lists that follow are examples only. They do not include every possible position or licensing situation. For more information, call the SDE Certification and Professional Standards Department at (208) 332-6800.~~

- ~~1. The following special education and related services positions require individuals who are employed by the district to be certificated and to meet any additional licensure requirements:~~
 - ~~a. audiologist;~~
 - ~~b. consulting teacher;~~
 - ~~c. counselor;~~
 - ~~d. director of special education;~~
 - ~~e. early childhood special education teacher;~~
 - ~~f. school psychologist;~~
 - ~~g. special education teacher;~~
 - ~~h. speech language pathologist; and~~
 - ~~i. supervisor/coordinator of special education.~~
- ~~2. Some special education service providers need both licensure in their area of expertise and certification from the SDE.~~
 - ~~a. School nurses are certificated by the SDE and licensed by the Idaho Board of Nursing.~~
 - ~~b. School social workers are certificated by the SDE and licensed by the Idaho Board of Social Work Examiners.~~
- ~~3. Some special education service providers must meet the licensure or certification~~

~~requirements in their respective professions, but certification from the SDE is not required.~~

- ~~a. Occupational therapists and physical therapists are licensed by the Occupational Therapy Licensure Board of Idaho.~~
 - ~~b. Physical therapists are licensed by the Idaho Physical Therapy Licensure Board.~~
 - ~~c. Vocational education teachers are certificated by the Idaho Division of Career and Technical Education.~~
 - ~~d. Vocational rehabilitation counselors must meet national standards for Certified Rehabilitation Counseling (CRC) to be employed by the Idaho Division of Vocational Rehabilitation.~~
- ~~4. An emergency provisional certificate cannot be used as an alternative for individuals to become certificated special education teachers in Idaho. The district shall use the alternative authorization options to request alternative endorsement/certification when a professional position cannot be filled with someone who holds the appropriate endorsement/certification.~~

B. Shortage of Personnel

If there is a shortage of qualified personnel, the ~~district~~ LEA shall take measurable steps to recruit and hire qualified personnel to provide special education and related services to students with disabilities. However, when a professional position cannot be filled with an individual who has the appropriate certification, vacant positions may be filled with personnel ~~on the following approved alternate pathways to teaching;~~ on an approved alternate pathway to teaching. Information regarding pathways to certification/endorsement is available on the Certification and Professional Standards webpage of the Idaho Department of Education's website.

- ~~1. Teacher to New Certification: An individual holds a Bachelor's degree and a valid teaching certificate without full endorsement in area of need. The candidate works towards completing a preparation program for special education certification and is employed by the district.~~
- ~~2. Content Specialist: An individual who is uniquely qualified in an area and holds a Bachelor's degree. The candidate works towards completing a preparation program while employed by the district. The preparation program must include mentoring, one classroom observation per month until certified, and prior to entering the classroom; the candidate completes an accelerated study in education pedagogy.~~
- ~~3. Non-Traditional Route to Certification: An individual may acquire interim certification through a non-traditional alternative route to teacher certification that is approved by the State Board of Education. During the interim certification, teaching shall be done in conjunction with a two-year mentoring program approved by the State Board of Education.~~

~~Further information and all requirements for each alternative route to certification are available in Idaho Administrative Code (IDAPA 08.02.02).~~

Nothing in the IDEA creates a right of action on behalf of a student or class of students for failure to employ qualified staff.

C. Paraprofessionals, ~~Assistants, and Aides~~

The ~~district~~ LEA may employ paraprofessionals, ~~assistants, and aides~~ who are appropriately trained and supervised to assist in the provision of special education and related services to students with disabilities if they meet standards established by the ~~SDE~~ Idaho Department of Education. ~~(find the “Standards for Paraprofessionals Supporting Students with Special Needs” on the SDE website).~~

~~Appropriate duties to be performed by paraprofessionals are:~~

- ~~1. provide one-on-one services for students as specified in the students’ IEP;~~
- ~~2. assist with classroom management and organizing materials;~~
- ~~3. provide assistance in a computer lab or media center;~~
- ~~4. conduct parental involvement activities;~~
- ~~5. act as a translator;~~
- ~~6. assist in provision of services only under the direct supervision of a certified teacher or related service provider, specifically:~~
 - ~~a. a teacher/related service provider plans instruction and evaluates student achievement; and~~
 - ~~b. the paraprofessional works in conjunction with the teacher or related service provider as determined by the student’s IEP.~~

Paraprofessionals may assist in the provision of special education and related services to students with disabilities by providing small-group or other individualized services for students as specified in the students’ IEPs.

Paraprofessionals may assist in the provision of services only under the direct supervision of a certified teacher or related service provider. A teacher/related service provider shall plan instruction and assess student progress. The paraprofessional shall work in collaboration with the teacher or related service provider as provided for in the student’s IEP.

Paraprofessionals assisting in the provision of special education and related services to students with disabilities shall have a high school diploma or its recognized equivalent. They shall also meet at least one of the following requirements:

1. Complete two (2) years of study at an institution of higher education; or
2. Obtain an associate's (or higher) post-secondary degree; or
3. Meet a rigorous standard of quality and be able to demonstrate, through a formal State-approved academic assessment, knowledge of and the ability to assist in instructing, reading, writing, and mathematics (or, as appropriate, reading readiness, writing readiness, and mathematics readiness).

~~A special education paraprofessional shall be qualified as follows.~~

- ~~1. All paraprofessionals must have a secondary school diploma or its recognized equivalent~~
- ~~2. Additionally, except as noted below, paraprofessionals must have:~~
 - ~~a. Completed two years of study at an institution of higher education; or~~
 - ~~b. Obtained an associate's (or higher) degree; or~~
 - ~~c. Met a rigorous standard of quality and be able to demonstrate, through a formal State or local academic assessment, knowledge of and the ability to assist in instructing, reading, writing, and mathematics (or, as appropriate, reading readiness, writing readiness, and mathematics readiness). (in Idaho this is the ETS Parapro Praxis with a minimum score of 460).~~

~~The district may encourage qualified paraprofessionals employed in their classrooms to become certified teachers.~~

D. Educational Sign Language Interpreters

The ~~district~~ LEA may only employ an individual as an educational sign language interpreter if they have met the ~~state~~ State qualifications identified in ~~Section 33-1304~~, Idaho Code.

~~Educational interpreters employed by the district shall complete a minimum of eighty (80) hours of training in the areas of interpreting or translating every five (5) years.~~

E. Supervision of Staff

A teacher and/or a related service provider with appropriate certification or licensure who has been informed of his or her specific responsibilities related to a student's IEP has the primary responsibility to ensure the appropriate implementation of the IEP. The ~~district~~ LEA shall have ~~has~~ policies and procedures for the supervision and evaluation of all certificated/licensed or contracted employees.

The certificated/licensed teacher and/or related service provider will generally be responsible for the supervision of all ~~paraprofessionals, assistants, and aides~~ support staff who provide direct services to students with disabilities. ~~All paraprofessionals, assistants, and aides must have a supervision plan developed by a certificated or licensed professional.~~

F. Professional Development ~~Plan~~

The ~~district~~ LEA ~~shall~~ **will** take measures to ensure that all personnel necessary to provide special education and related services according to the IDEA are appropriately and adequately prepared. Personnel may use a variety of opportunities for technical assistance and training activities to further develop professional knowledge and skills ~~in order~~ to meet the needs of students with disabilities.

~~To the extent the district determines it is appropriate, paraprofessional personnel may use the technical assistance and training activities offered by the district or SDE to improve practice for paraprofessional supports for special needs.~~

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Appendix I. Procedural Safeguards Notice

Idaho Department of Education

Procedural Safeguards Notice for

Students with Disabilities and their

Parents Under the Individuals with

Disabilities Education Act

Revised 2025

IDEA Part B Procedural Safeguards Notice

Revised: ~~June 2016~~ 2025

Dear Parent,

This document provides you with the required notice of the procedural safeguards available under the Individuals with Disabilities Education Act (IDEA) and U.S. Department of Education regulations. The IDEA, the Federal law concerning the education of students with disabilities, requires schools to provide the parent(s) of a child with a disability a notice containing a full explanation of the procedural safeguards available. A copy of this notice must be given only one time per school year, except that a copy must also be given:

- 1) Upon initial referral or **upon** your request for evaluation;
- 2) Upon receipt of your first State complaint and upon receipt of your first due process complaint in a school year;
- 3) When a decision is made to take a disciplinary action against your child that constitutes a change of placement; and
- 4) Upon your request.

Please contact the school district **or charter** for more information on these rights. For further explanation you may also contact:

~~Idaho Special Education Dispute Resolution, State Dept. of Education~~
Idaho Department of Education

P.O. Box 83720

Boise, ID 83720-0027

Phone: (208) 332-6914

Toll-free: (800) 432-4601

V/TT: (800) 377-3529

~~Fax: (208) 334-2228~~

Web: www.sde.idaho.gov

disputeresolution@sde.idaho.gov

For further assistance in matters relating to dispute resolution, you may contact:

***DisAbility Rights Idaho
Boise Office***

~~4477 Emerald Street,~~
~~Suite B-100~~
9542 Bethel Ct.
Boise, ID ~~83706-2066~~ 83209
Phone: (208) 336-5353
Toll-free: ~~(800) 632-5125~~ (866) 262-3462
Fax: (208) 336-5396
Web: disabilityrightsidaho.org

***DisAbility Rights Idaho Pocatello
Office***

1246 Yellowstone Ave.
Suite A-3
Pocatello, ID 83201-4374
Phone: ~~(208) 232-0922~~ (208) 336-5353
Toll-free: ~~(866) 309-1589~~ (866) 262-3462
Fax: ~~(208) 232-0938~~ (208) 336-5396
Web: disabilityrightsidaho.org

***Idaho Parents Unlimited, Inc.
(IPUL)***

4619 Emerald St., Ste. E
Boise, ID ~~83702~~ 83706
Phone: (208) 342-5884
Toll-free: (800) 242-IPUL (4785)
V/TT: (208) 342-5884
Fax: (208) 342-1408
Web: ipulidaho.org

Idaho Legal Aid Services

1447 Tyrell Lane
Boise, ID 83706
Phone: ~~(208) 336-8980~~ (208) 746-7541
Fax: (208) 342-2561
Web: idaholegalaid.org

Idaho State Bar Association

P.O. Box 895
Boise, ID 83701
Phone (208) 334-4500
Fax: (208) 334-4515
Web: isb.idaho.gov

***~~Wrightslaw Idaho Yellow Pages for
Kids~~***

~~Web:~~
~~yellowpagesforkids.com/help/id.htm~~

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GENERAL INFORMATION

Prior Written Notice

34 CFR §300.503

Notice

Your school district **or charter** must give you written notice (provide you certain information in writing), within a reasonable amount of time before it:

- 1) Proposes to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of a free appropriate public education (FAPE) to your child; **or**
- 2) Refuses to initiate or to change the identification, evaluation, educational placement of your child, or the provision of FAPE to your child.

Content of notice

The written notice must:

- 1) Describe the action that your school district **or charter** proposes or refuses to take;
- 2) Explain why your school district **or charter** is proposing or refusing to take the action;
- 3) Describe each evaluation procedure, assessment, record, or report your school district **or charter** used in deciding to propose or refuse the action;
- 4) Include a statement that you have protections under the procedural safeguards provisions in Part B of IDEA;
- 5) Tell you how you can obtain a description of the procedural safeguards if the action that your school district **or charter** is proposing or refusing is not an initial referral for evaluation;
- 6) Include resources for you to contact for help in understanding Part B of IDEA;
- 7) Describe any other options that your child's individualized education program (IEP) Team considered and the reasons why those options were rejected; **and**
- 8) Provide a description of other reasons why your school district **or charter** proposed or refused the action.

Notice in understandable language

The notice must be:

- 1) Written in language understandable to the general public; **and**
- 2) Provided in your native language or other mode of communication you use, unless it is clearly not feasible to do so.
- 3) If your native language or other mode of communication is not a written language, your school district **or charter** must ensure that:

- a) The notice is translated for you orally or by other means in your native language or other mode of communication;
- b) You understand the content of the notice; **and**
- c) There is written evidence that the requirements in paragraphs 1 and 2 have been met.

Native Language

34 CFR §300.29

Native language, when used regarding an individual who has limited English proficiency, means the following:

- 1) The language normally used by that person, or, in the case of a child, the language normally used by the child's parents;
- 2) In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment.

For a person with deafness or blindness, or for a person with no written language, the mode of communication is what the person normally uses (such as sign language, Braille, or oral communication).

Electronic Mail

34 CFR §300.505

If your school district **or charter** offers parents the choice of receiving documents by e-mail, you may choose to receive the following by e-mail:

- 1) Prior written notice;
- 2) Procedural safeguards notice; **and**
- 3) Notices related to a due process complaint.

Parental Consent - Definition

34 CFR §300.9

Consent

Consent means:

- 1) You have been fully informed in your native language or other mode of communication (such as sign language, Braille, or oral communication) of all information about the action for which you are giving consent.
- 2) You understand and agree in writing to that action, and the consent describes that action and lists the records (if any) that will be released and to whom; **and**
- 3) You understand that the consent is voluntary on your part and that you may withdraw your consent at any time.

If you wish to revoke (cancel) your consent after your child has begun receiving special

education and related services, you must do so in writing. Your withdrawal of consent does not negate (undo) an action that has occurred after you gave your consent but before you withdrew it. In addition, the school district [or charter](#) is not required to amend (change) your child's education records to remove any references that your child received special education and related services after your withdrawal of consent.

Parental Consent

34 CFR §300.300

Consent for initial evaluation

Your school district [or charter](#) cannot conduct an initial evaluation of your child to determine whether your child is eligible under Part B of IDEA to receive special education and related services without first providing you with prior written notice of the proposed action and obtaining your consent as described under the headings *Prior Written Notice* and *Parental Consent*.

Your school district [or charter](#) must make reasonable efforts to obtain your informed consent for an initial evaluation to decide whether your child is a child with a disability.

Your consent for initial evaluation does not mean that you have also given your consent for the school district [or charter](#) to start providing special education and related services to your child.

Your school district [or charter](#) may not use your refusal to consent to one service or activity related to the initial evaluation as a basis for denying you or your child any other service, benefit, or activity, unless another Part B requirement requires the school district [or charter](#) to do so.

If your child is enrolled in public school or you are seeking to enroll your child in a public school and you have refused to provide consent or failed to respond to a request to provide consent for an initial evaluation, your school district [or charter](#) may, but is not required to, seek to conduct an initial evaluation of your child by using the IDEA's mediation or due process complaint, resolution meeting, and impartial due process hearing procedures. Your school district [or charter](#) will not violate its obligations to locate, identify and evaluate your child if it does not pursue an evaluation of your child in these circumstances.

Special rules for initial evaluation of wards of the State

If a child is a ward of the State and is not living with his or her parent —

The school district [or charter](#) does not need consent from the parent for an initial evaluation to determine if the child is a child with a disability if:

- 1) Despite reasonable efforts to do so, the school district [or charter](#) cannot find the child's parent;
- 2) The rights of the parents have been terminated in accordance with State law; **or**
- 3) A judge has assigned the right to make educational decisions to an individual other than the parent and that individual has provided consent for an initial evaluation.

Ward of the State, as used in IDEA, means a child who, as determined by the State where the child lives, is:

- 1) A foster child;
- 2) Considered a ward of the State under State law; or
- 3) In the custody of a public child welfare agency.

There is one exception that you should know about. *Ward of the State* does not include a foster child who has a foster parent who meets the definition of a *parent* as used in IDEA.

Parental consent for services

Your school district **or charter** must obtain your informed consent before providing special education and related services to your child for the first time.

The school district **or charter** must make reasonable efforts to obtain your informed consent ~~before providing to provide~~ special education and related services to your child for the first time.

If you do not respond to a request to provide your consent for your child to receive special education and related services for the first time, or if you refuse to give such consent or later revoke (cancel) your consent in writing, your school district **or charter** may not use the procedural safeguards (i.e., mediation, due process complaint, resolution meeting, or an impartial due process hearing) in order to obtain agreement or a ruling that the special education and related services (recommended by your child's IEP team) may be provided to your child without your consent.

If you refuse to give your consent for your child to receive special education and related services for the first time, or if you do not respond to a request to provide such consent or later revoke (cancel) your consent in writing and the school district **or charter** does not provide your child with the special education and related services for which it sought your consent, your school district **or charter**:

- 1) Is not in violation of the requirement to make a free appropriate public education (FAPE) available to your child for its failure to provide those services to your child; and
- 2) Is not required to have an individualized education program (IEP) meeting or develop an IEP for your child for the special education and related services for which your consent was requested.

If you revoke (cancel) your consent in writing at any point after your child is first provided special education and related services, then the school district **or charter** may not continue to provide such services, but must provide you with prior written notice, as described under the heading ***Prior Written Notice***, before discontinuing those services.

Parent's Right to Object

Once you consent to the initial start of services, the school district **or charter** is not required to obtain your consent to make changes to the IEP. **However, you are a required member of the IEP team that makes decisions about your student's educational program. However, if** If you do not agree with changes to the IEP you may request facilitation or mediation, or file for a due process hearing. ~~want the school district to implement the changes to the IEP, you must submit your objections in writing. Your written objections must either be postmarked or hand-delivered to the school district within 10 days of receiving the written notice of the changes.~~

~~IDAPA 8.02.03.109.05a~~

Parental consent for reevaluations

Your school district **or charter** must obtain your informed consent before it reevaluates your child, unless your school district **or charter** can demonstrate that:

- 1) It took reasonable steps to obtain your consent for your child's reevaluation; **and**
- 2) You did not respond.

If you refuse to consent to your child's reevaluation, the school district **or charter** may, but is not required to, pursue your child's reevaluation by using the mediation, due process complaint, resolution meeting, and impartial due process hearing procedures to seek to override your refusal to consent to your child's reevaluation. As with initial evaluations, your school district **or charter** does not violate its obligations under Part B of IDEA if it declines to pursue the reevaluation in this manner.

Documentation of reasonable efforts to obtain parental consent

Your school must maintain documentation of reasonable efforts to obtain your consent for initial evaluations, to provide special education and related services for the first time, for a reevaluation, and to locate parents of wards of the State for initial evaluations. The documentation must include a record of the ~~school district's~~ **school's or charter's** attempts in these areas, such as:

- 1) Detailed records of telephone calls made or attempted and the results of those calls;
- 2) Copies of correspondence sent to you and any responses received; **and**
- 3) Detailed records of visits made to your home or place of employment and the results of those visits.

Other consent requirements

Your consent is not required before your school district **or charter** may:

- 1) Review existing data as part of your child's evaluation or a reevaluation; **or**
- 2) Give your child a test or other evaluation that is given to all children unless, before that test or evaluation, consent is required from parents of all children.

The school district **or charter** must develop and implement procedures to ensure that your refusal to consent to any of these other services and activities does not result in a failure to provide your child with a free appropriate public education (FAPE). Also, your school district **or charter** may not use your refusal to consent to one of these services or activities as a basis for denying any other service, benefit, or activity, unless another Part B requirement requires the school district **or charter** to do so.

If you have enrolled your child in a private school at your own expense or if you are home schooling your child, and you do not provide your consent for your child's initial evaluation or your child's reevaluation, or you fail to respond to a request to provide your consent, the school district **or charter** may not use its dispute resolution procedures (i.e., mediation, due process complaint, resolution meeting, or an impartial due process hearing) and is not required to

consider your child as eligible to receive equitable services (services made available to some parentally-placed private school children with disabilities).

Independent Educational Evaluations

34 CFR §300.502

General

As described below, you have the right to obtain an independent educational evaluation (IEE) of your child if you disagree with the evaluation of your child that was obtained by your school district **or charter**.

If you request an independent educational evaluation, the school district **or charter** must provide you with information about where you may obtain an independent educational evaluation and about the ~~school district's~~ **school's or charter's** criteria that apply to independent educational evaluations.

Definitions

Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the school district **or charter** responsible for the education of your child.

Public expense means that the school district **or charter** either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to you, consistent with the provisions of Part B of IDEA, which allow each State to use whatever State, local, Federal, and private sources of support are available in the State to meet the requirements of Part B of the Act.

Right to evaluation at public expense

You have the right to an independent educational evaluation of your child at public expense if you disagree with an evaluation of your child obtained by your school district **or charter**, subject to the following conditions:

- 1) If you request an independent educational evaluation of your child at public expense, your school district **or charter** must, without unnecessary delay, either: (a) File a **for** due process ~~hearing complaint~~ to request a hearing to show that its evaluation of your child is appropriate; or (b) Provide an independent educational evaluation at public expense, unless the school district **or charter** demonstrates in a hearing that the evaluation of your child that you obtained did not meet the school district's **or charter's** criteria.
- 2) If your school district **or charter** requests a hearing and the final decision is that your school's **or charter's** ~~district's~~ evaluation of your child is appropriate, you still have the right to an independent educational evaluation, but not at public expense.
- 3) If you request an independent educational evaluation of your child, the school district **or charter** may ask why you object to the evaluation of your child obtained by your school ~~district~~. However, your school district **or charter** may not require an explanation and may not unreasonably delay either providing the independent educational evaluation of your child at public expense or filing a due process complaint to request a due process hearing to defend the school's **or charter's** ~~district's~~ evaluation of your child.

You are entitled to only one independent educational evaluation of your child at public expense each time your school district **or charter** conducts an evaluation of your child with which you disagree.

Parent-initiated evaluations

If you obtain an independent educational evaluation of your child at public expense or you share with the school district **or charter** an evaluation of your child that you obtained at private expense:

- 1) Your school district **or charter** must consider the results of the evaluation of your child, if it meets the school district's **or charter's** criteria for independent educational evaluations, in any decision made with respect to the provision of a free appropriate public education (FAPE) to your child; **and**
- 2) You or your school district **or charter** may present the evaluation as evidence at a due process hearing regarding your child.

Requests for evaluations by hearing officers

If a hearing officer requests an independent educational evaluation of your child as part of a due process hearing, the cost of the evaluation must be at public expense.

School district **or charter criteria**

If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the school district **or charter** uses when it initiates an evaluation (to the extent those criteria are consistent with your right to an independent educational evaluation).

Except for the criteria described above, a school district **or charter** may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

Confidentiality of Information

34 CFR §300.611

As used under the heading Confidentiality of Information:

Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

Education records means the type of records covered under the definition of “education records” in 34 CFR Part 99 ([the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)]).

Participating agency means any school district, **charter**, agency, or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of IDEA.

Personally Identifiable

34 CFR §300.32

Personally identifiable means information that includes:

- 1) Your child's name, your name as the parent, or the name of another family member;
- 2) Your child's address;
- 3) A personal identifier, such as your child's social security number or student number; **or**
- 4) A list of personal characteristics or other information that would make it possible to identify your child with reasonable certainty.

Notice to Parents

34 CFR §300.612

The State Educational Agency must give notice that is adequate to fully inform parents about confidentiality of personally identifiable information, including:

- 1) A description of the extent to which the notice is given in the native languages of the various population groups in the State;
- 2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
- 3) A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; **and**
- 4) A description of all of the rights of parents and children regarding this information, including the rights under the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations in 34 CFR Part 99.

Before any major activity to identify, locate, or evaluate children in need of special education and related services (also known as “child find”), the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State of these activities.

Access Rights

34 CFR §300.613

The participating agency must permit you, **upon your request**, to inspect and review any education records relating to your child that are collected, maintained, or used by your school district **or charter** under Part B of IDEA. The participating agency must comply with your request **without unnecessary delay, and in no case more than 45 calendar days**, to inspect and

review any education records on your child ~~without unnecessary delay and~~ before any meeting regarding an individualized education program (IEP), or any impartial due process hearing (including a resolution meeting or a hearing regarding discipline.), ~~and in no case more than 45 calendar days after you have made a request.~~

Your right to inspect and review education records includes:

- 1) Your right to a response from the participating agency to your reasonable requests for explanations and interpretations of the records;
- 2) Your right to request that the participating agency provide copies of the records if you cannot effectively inspect and review the records unless you receive those copies; **and**
- 3) Your right to have your representative inspect and review the records.

The participating agency may presume that you have authority to inspect and review records relating to your child unless advised that you do not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

Record of Access

34 CFR §300.614

Each participating agency must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of IDEA (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

Records on More Than One Child

34 CFR §300.615

If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

List of Types and Locations of Information

34 CFR §300.616

On request, each participating agency must provide you with a list of the types and locations of education records collected, maintained, or used by the agency.

Fees

34 CFR §300.617

Each participating agency may charge a fee for copies of records that are made for you under Part B of IDEA, if the fee does not effectively prevent you from exercising your right to inspect and review those records.

A participating agency may not charge a fee to search for or to retrieve information under Part B of IDEA.

Amendment of Records at Parent's Request

34 CFR §300.618

If you believe that information in the education records regarding your child collected, maintained, or used under Part B of IDEA is inaccurate, misleading, or violates the privacy or other rights of your child, you may request the participating agency that maintains the information to change the information.

The participating agency must decide whether to change the information in accordance with your request within a reasonable period of time of receipt of your request.

If the participating agency refuses to change the information in accordance with your request, it must inform you of the refusal and advise you of your right to a hearing as described under the heading *Opportunity for a Hearing*.

Opportunity for a Hearing

34 CFR §300.619

The participating agency must, on request, provide you an opportunity for a hearing to challenge information in education records regarding your child to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child.

Hearing Procedures

34 CFR §300.621

A hearing to challenge information in education records must be conducted according to the procedures for such hearings under the Family Educational Rights and Privacy Act (FERPA).

Result of Hearing

34 CFR §300.620

If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of your child, it must change the information accordingly and inform you in writing.

If, as a result of the hearing, the participating agency decides that the information is not

inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child, it must inform you of your right to place in the records that it maintains on your child a statement commenting on the information or providing any reasons you disagree with the decision of the participating agency.

Such an explanation placed in the records of your child must:

- 1) Be maintained by the participating agency as part of the records of your child as long as the record or contested portion is maintained by the participating agency; **and**
- 2) If the participating agency discloses the records of your child or the challenged information to any party, the explanation must also be disclosed to that party.

Consent For Disclosure of Personally Identifiable Information

34 CFR §300.622

Unless the information is contained in education records, and the disclosure is authorized without parental consent under the Family Educational Rights and Privacy Act (FERPA), your consent must be obtained before personally identifiable information is disclosed to parties other than officials of participating agencies. Except under the circumstances specified below, your consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of Part B of IDEA.

Your consent, or consent of an eligible child who has reached the age of majority under State law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

If your child is in, or is going to go to, a private school that is not located in the same school district you reside in, your consent must be obtained before any personally identifiable information about your child is released between officials in the school district where the private school is located and officials in the school district where you reside.

Safeguards

34 CFR §300.623

Each participating agency must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.

All persons collecting or using personally identifiable information must receive training or instruction regarding your State's policies and procedures regarding confidentiality under Part B of IDEA and the Family Educational Rights and Privacy Act (FERPA).

Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

Destruction of Information

34 CFR §300.624

Your school district [or charter](#) must inform you when personally identifiable information collected, maintained, or used under Part B of IDEA is no longer needed to provide educational services to your child.

The information must be destroyed at your request. However, a permanent record of your child's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

STATE COMPLAINT PROCEDURES

Differences Between the Procedures for Due Process Complaints and Hearings and for State Complaints

The regulations for Part B of IDEA set forth separate procedures for State complaints and for due process complaints and hearings. As explained below, any individual or organization may file a State complaint alleging a violation of any Part B requirement by a school district [or charter](#), the State Educational Agency, or any other public agency. Only you or a school district [or charter](#) may file a due process complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation, or educational placement of a child with a disability, or the provision of a free appropriate public education (FAPE) to the child. While staff of the State Educational Agency generally must resolve a State complaint within a 60-calendar-day timeline, unless the timeline is properly extended, an impartial hearing officer must hear a due process complaint (if not resolved through a resolution meeting or through mediation) and issue a written decision within 45-calendar-days after the end of the resolution period, as described in this document under the heading Resolution Process, unless the hearing officer grants a specific extension of the timeline at your request or the school district's [or charter's](#) request. The State complaint and due process complaint, resolution and hearing procedures are described more fully below. The State Educational Agency must develop model forms to help you file a due process complaint and help you or other parties to file a State complaint as described under the heading *Model Forms*.

Adoption of State Complaint Procedures

34 CFR §300.151

General

Each State Educational Agency must have written procedures for:

- 1) Resolving any complaint, including a complaint filed by an organization or individual from another State;

- 2) The filing of a complaint with the State Educational Agency; and
- 3) Widely disseminating the State complaint procedures to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities.

Remedies for denial of appropriate services

In resolving a State complaint in which the State Educational Agency has found a failure to provide appropriate services, the State Educational Agency must address:

- 1) The failure to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); **and**
- 2) Appropriate future provision of services for all children with disabilities.

Minimum State Complaint Procedures

34 CFR §300.152

Time limit; minimum procedures

Each State Educational Agency must include in its State complaint procedures a time limit of 60 calendar days after a complaint is filed to:

- 1) Carry out an independent ~~on-site~~ investigation, if the State Educational Agency determines that an investigation is necessary;
- 2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
- 3) Provide the school district, **charter**, or other public agency with the opportunity to respond to the complaint, including, at a minimum:
 - a) at the option of the agency, a proposal to resolve the complaint; **and**
 - b) an opportunity for a parent who has filed a complaint and the agency to agree voluntarily to engage in mediation;
- 4) Review all relevant information and make an independent determination as to whether the school district **or charter** or other public agency is violating a requirement of Part B of IDEA; **and**
- 5) Issue a written decision to the complainant that addresses each allegation in the complaint and contains:
 - a) findings of fact and conclusions; **and**
 - b) the reasons for the State Educational Agency's final decision.

Time extension; final decision; implementation

The State Educational Agency's procedures described above also must:

- 1) Permit an extension of the 60 calendar-day time limit only if: (a) exceptional circumstances exist with respect to a particular State complaint; or (b) you and the school district or charter or other public agency involved voluntarily agree to extend the time to resolve the matter through mediation or alternative means of dispute resolution, if available in the State.
- 2) Include procedures for effective implementation of the State Educational Agency's final decision, if needed, including: (a) technical assistance activities; (b) negotiations; and (c) corrective actions to achieve compliance.

A complaint investigation report is final as of the date set forth in the report and is not subject to an appeal. A parent, district, or charter may file for a due process hearing regarding any concerns related to the identification, evaluation, educational placement, or provision of free appropriate public education (FAPE). Any CAP requirements and timelines set forth in the complaint investigation report will continue to run even if a due process hearing is filed on the same issue(s).

State complaints and due process hearings

If a written State complaint is received that is also the subject of a due process hearing as described under the heading *Filing a Due Process Complaint*, or the State complaint contains multiple issues of which one or more are part of such a hearing, the State must set aside any part of the State complaint that is being addressed in the due process hearing until the hearing is over. Any issue in the State complaint that is not a part of the due process hearing must be resolved using the time limit and procedures described above.

If an issue raised in a State complaint has previously been decided in a due process hearing involving the same parties (for example, you and the school district or charter), then the due process hearing decision is binding on that issue and the State Educational Agency must inform the complainant that the decision is binding.

A complaint alleging a school district's, charter's, or other public agency's failure to implement a due process hearing decision must be resolved by the State Educational Agency.

~~Complaint Investigation Final Report~~

~~A complaint investigation report is final as of the date set forth in the report and is not subject to an appeal. If any party disagrees with the findings on the issue(s) presented in the report or disagrees with the corrective action plan (CAP) in the report, an administrative due process hearing complaint may be filed provided the party has the right to file for a hearing on the issue(s) with which the party disagrees. Any CAP requirements and timelines will continue to run even if a due process hearing is filed on the same issue(s).~~

Filing a State Complaint

34 CFR §300.153

An organization or individual may file a signed written State complaint under the procedures described above.

The State complaint must include:

- 1) A statement that a school district, charter, or other public agency has violated a

requirement of Part B of IDEA or its implementing regulations in 34 CFR Part 300;

- 2) The facts on which the statement is based; **and**
- 3) The signature and contact information for the party filing the complaint. ~~;~~ **and**

If alleging violations regarding a specific child, **the State complaint must also include:**

- 1) The **child's** name ~~of the child~~ and residential address ~~of the residence of the child~~;
- 2) The name of the school **or charter** the child is attending;
- 3) In the case of a homeless child or youth, available contact information for the child, and the name of the school **or charter** the child is attending;
- 4) A description of the nature of the problem ~~of~~ **related to** the child, including facts relating to the problem; **and**
- 5) A proposed resolution of the problem to the extent known and available to the party filing the complaint at the time the complaint is filed.

The complaint must allege a violation that occurred not more than one **(1)** year prior to the date that the complaint is received as described under the heading ***Adoption of State Complaint Procedures.***

The party filing the State complaint must forward a copy of the complaint to the school district, **charter**, or other public agency serving the child at the same time the party files the complaint with the State Educational Agency.

DUE PROCESS COMPLAINT PROCEDURES

Filing a Due Process Complaint

34 CFR §300.507

General

You, or the school district **or charter**, may file a due process complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation or educational placement of your child, or the provision of a free appropriate public education (FAPE) to your child.

The due process complaint must allege a violation that happened not more than two years before you, or the school district, ~~;~~ **or charter**, knew or should have known about the alleged action that forms the basis of the due process complaint.

The above timeline does not apply to you if you could not file a due process complaint within the timeline because:

- 1) The school district **or charter** specifically misrepresented that it had resolved the issues identified in the complaint; **or**
- 2) The school district **or charter** withheld information from you that it was required to provide you under Part B of IDEA.

Information for parents

The school district [or charter](#) must inform you of any free or low-cost legal and other relevant services available in the area if you request the information, or if you or the school district [or charter](#) file a due process complaint.

Due Process Complaint**34 CFR §300.508****General**

In order to request a hearing, you or the school district [or charter](#) (or your attorney or the school district's [or charter's](#) attorney) must submit a due process complaint to the other party. That complaint must contain all of the content listed below and must be kept confidential.

Whoever files the complaint must also provide the State Educational Agency with a copy of the complaint.

Content of the complaint

The due process complaint must include:

- 1) The name of the child;
- 2) The address of the child's residence;
- 3) The name of the child's school [or charter](#);
- 4) If the child is a homeless child or youth, the child's contact information and the name of the child's school [or charter](#);
- 5) A description of the nature of the problem ~~of~~-related to the child relating to the proposed or refused action, including facts relating to the problem; **and**
- 6) A proposed resolution of the problem to the extent known and available to the complaining party (you or the school district [or charter](#)) at the time.

Notice required before a hearing on a due process complaint

You, or the school district [or charter](#), may not have a due process hearing until you or the school district [or charter](#) (or your attorney or the school district's [or charter's](#) attorney) files a due process complaint that includes the information listed above.

Sufficiency of complaint

In order for a due process complaint to go forward, it must be considered sufficient. The due process complaint will be considered sufficient (to have met the content requirements above) unless the party receiving the due process complaint (you or the school district [or charter](#)) notifies the hearing officer and the other party in writing, within 15 calendar days of receiving the complaint, that the receiving party believes that the due process complaint does not meet the requirements listed above.

Within five calendar days of receiving the notification that the receiving party (you or the school district [or charter](#)) considers a due process complaint insufficient, the hearing officer must decide

if the due process complaint meets the requirements listed above and notify you and the school district **or charter** in writing immediately.

Complaint amendment

You or the school district **or charter** may **amend or** make changes to the complaint only if:

- 1) The other party approves of the changes in writing and is given the chance to resolve the due process complaint through a resolution meeting, described under the heading ***Resolution Process; or***
- 2) By no later than five days before the due process hearing begins, the hearing officer grants permission for the changes.

If the complaining party (you or the school district **or charter**) ~~makes changes to~~ **amends** the due process complaint, the timelines for the resolution meeting (within 15 calendar days of receiving the complaint) and the time period for resolution (within 30 calendar days of receiving the complaint) start again on the date the amended complaint is filed.

Local educational agency (LEA) School district or charter response to a due process complaint

If the school district **or charter** has not sent a prior written notice to you, as described under the heading ***Prior Written Notice***, regarding the subject matter contained in your due process complaint, the school district **or charter must**, within 10 calendar days of receiving the due process complaint, send to you a response that includes:

- 1) An explanation of why the school district **or charter** proposed or refused to take the action raised in the due process complaint;
- 2) A description of other options that your child's individualized education program (IEP) ~~Team~~ considered and the reasons why those options were rejected;
- 3) A description of each evaluation procedure, assessment, record, or report the school district **or charter** used as the basis for the proposed or refused action; **and**
- 4) A description of the other factors that are relevant to the school district's **or charter's** proposed or refused action.

Providing the information in items 1-4 above does not prevent the school district **or charter** from asserting that your due process complaint was insufficient.

Other party response to a due process complaint

Except as stated under the sub-heading immediately above, ***Local educational agency (LEA) School district or charter response to a due process complaint***, the party receiving a due process complaint must, within 10 calendar days of receiving the complaint, send the other party a response that specifically addresses the issues in the complaint.

Model Forms

34 CFR §300.509

The State Educational Agency must develop model forms to help you to file a due process complaint and to help you and other parties to file a State complaint. However, your State or the school district [or charter](#) may not require the use of these model forms. In fact, you can use the model form or another appropriate form, so long as it contains the required information for filing a due process complaint or a State complaint.

Mediation

34 CFR §300.506

General

The school district [or charter](#) must develop procedures that make mediation available to allow you and the school district [or charter](#) to resolve disagreements involving any matter under Part B of IDEA, including matters arising prior to the filing of a due process complaint. Thus, mediation is available to resolve disputes under Part B of IDEA, whether or not you have filed a due process complaint to request a due process hearing as described under the heading *Filing a Due Process Complaint*.

Requirements

The procedures must ensure that the mediation process:

- 1) Is voluntary on your part and the school district's [or charter's](#) part;
- 2) Is not used to deny or delay your right to a due process hearing, or to deny any other rights provided under Part B of IDEA; **and**
- 3) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

The school district [or charter](#) may develop procedures that offer parents and schools [or charters](#) that choose not to use the mediation process; an opportunity to meet, at a time and location convenient to you, with an [impartial and](#) disinterested party:

- 1) Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in the State; **and**
- 2) Who would explain [to you](#) the benefits of, and encourage the use of, the mediation process ~~to you~~.

The State must keep a list of people who are qualified mediators and know the laws and regulations relating to the provision of special education and related services. The State Educational Agency must select mediators on a random, rotational, or other impartial basis.

The State is responsible for the costs of the mediation process, including the costs of meetings.

Each meeting in the mediation process must be scheduled in a timely manner and held at a place that is convenient for you and the school district [or charter](#).

If you and the school district **or charter** resolve a dispute through the mediation process, both parties must enter into a legally binding agreement that sets forth the resolution and:

- 1) States that all discussions that happened during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding (court case); **and**
- 2) Is signed by both you and a representative of the school district **or charter** who has the authority to bind the school district **or charter**.

A written, signed mediation agreement is enforceable in any State court of competent jurisdiction (a court that has the authority under State law to hear this type of case) or in a district court of the United States.

Discussions that happened during the mediation process must be confidential. They cannot be used as evidence in any future due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under Part B of IDEA.

Impartiality of mediator

The mediator:

- 1) May not be an employee of the State Educational Agency or the school district **or charter** that is involved in the education or care of your child; **and**
- 2) Must not have a personal or professional interest which conflicts with the mediator's objectivity.

A person who otherwise qualifies as a mediator is not an employee of a school district, **charter**, or State agency solely because he or she is paid by the agency or school district **or charter** to serve as a mediator.

Resolution Process

34 CFR §300.510

Resolution meeting

Within 15 calendar days of receiving notice of your due process complaint, and before the due process hearing begins, the school district **or charter** must convene a meeting with you and the relevant member or members of the individualized education program (IEP) ~~Team~~ **team** who have specific knowledge of the facts identified in your due process complaint. The meeting:

- 1) Must include a representative of the school district **or charter** who has decision-making authority on behalf of the school district **or charter**; **and**
- 2) May not include an attorney of the school district **or charter** unless you are **also** accompanied by an attorney.

You and the school district **or charter** determine the relevant members of the IEP Team to attend the meeting.

The purpose of the meeting is for you to discuss your due process complaint, and the facts that form the basis of the complaint, so that the school district **or charter** has the opportunity to

resolve the dispute.

The resolution meeting is not necessary if:

- 1) You and the school district [or charter](#) agree in writing to waive the meeting; or
- 2) You and the school district [or charter](#) agree to use the mediation process, as described under the heading *Mediation*.

Resolution period

If the school district [or charter](#) has not resolved the due process complaint to your satisfaction within 30 calendar days of the receipt of the due process complaint (during the time period for the resolution process), the due process hearing may occur.

The 45-calendar-day timeline for issuing a final due process hearing decision, as described under the heading, **Hearing Decisions**, begins at the expiration of the 30-calendar-day resolution period, with certain exceptions for adjustments made to the 30-calendar-day resolution period, as described below.

Except where you and the school district [or charter](#) have both agreed to waive the resolution process or to use mediation, your failure to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held.

If after making reasonable efforts and documenting such efforts, the school district [or charter](#) is not able to obtain your participation in the resolution meeting, the school district [or charter](#) may, at the end of the 30-calendar-day resolution period, request that a hearing officer dismiss your due process complaint. Documentation of such efforts must include a record of the school district's [or charter's](#) attempts to arrange a mutually agreed upon time and place, such as:

- 1) Detailed records of telephone calls made or attempted and the results of those calls;
- 2) Copies of correspondence sent to you and any responses received; and
- 3) Detailed records of visits made to your home or place of employment and the results of those visits.

If the school district [or charter](#) fails to hold the resolution meeting within 15 calendar days of receiving notice of your due process complaint or fails to participate in the resolution meeting, you may ask a hearing officer to begin the 45-calendar-day due process hearing timeline.

Adjustments to the 30-calendar-day resolution period

If you and the school district [or charter](#) agree in writing to waive the resolution meeting, then the 45-calendar-day timeline for the due process hearing starts the next day.

After the start of mediation or the resolution meeting and before the end of the 30-calendar-day resolution period, if you and the school district [or charter](#) agree in writing that no agreement is possible, then the 45-calendar-day timeline for the due process hearing starts the next day.

If you and the school district [or charter](#) agree to use the mediation process but have not yet reached agreement, at the end of the 30-calendar-day resolution period the mediation process may be continued until an agreement is reached if both parties agree to the continuation in writing.

However, if either you or the school district [or charter](#) withdraws from the mediation process during this continuation period, then the 45-calendar-day timeline for the due process hearing starts the next day.

Written settlement agreement

If a resolution to the dispute is reached at the resolution meeting, you and the school district [or charter](#) must enter into a legally binding agreement that is:

- 1) Signed by you and a representative of the school district [or charter](#) who has the authority to bind the school district [or charter](#); **and**
- 2) Enforceable in any State court of competent jurisdiction (a State court that has authority to hear this type of case) or in a district court of the United States or by the State Educational Agency, if your State has another mechanism or procedures that permit parties to seek enforcement of resolution agreements.

Agreement review period

If you and the school district [or charter](#) enter into an agreement as a result of a resolution meeting, either party (you or the school district [or charter](#)) may void the agreement within 3 business days of the time that both you and the school district [or charter](#) signed the agreement.

HEARINGS ON DUE PROCESS COMPLAINTS

Impartial Due Process Hearing

34 CFR §300.511

General

Whenever a due process complaint is filed, you or the school district [or charter](#) involved in the dispute must have an opportunity for an impartial due process hearing, as described in the ***Due Process Complaint*** and ***Resolution Process*** sections.

Impartial hearing officer

At a minimum, a hearing officer:

- 1) Must not be an employee of the State Educational Agency or the school district [or charter](#) that is involved in the education or care of the child. However, a person is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer;
- 2) Must not have a personal or professional interest that conflicts with the hearing officer's objectivity in the hearing;
- 3) Must be knowledgeable and understand the provisions of IDEA, Federal and State regulations pertaining to IDEA, and legal interpretations of IDEA by Federal and State courts; **and**
- 4) Must have the knowledge and ability to conduct hearings, and to make and write

decisions, consistent with appropriate, standard legal practice.

~~Each school district~~—The State Educational Agency shall ~~must~~ keep a list of those persons who serve as hearing officers that includes a statement of the qualifications of each hearing officer.

Subject matter of due process hearing

The party (you or the school district **or charter**) that requests the due process hearing may not raise issues at the due process hearing that were not addressed in the due process complaint, unless the other party agrees.

Timeline for requesting a hearing

You or the school district **or charter** must request an impartial hearing on a due process complaint within two years of the date you or the school district **or charter** knew or should have known about the issue addressed in the complaint.

Exceptions to the timeline

The above timeline does not apply to you if you could not file a due process complaint because:

- 1) The school district **or charter** specifically misrepresented that it had resolved the problem or issue that you are raising in your complaint; **or**
- 2) The school district **or charter** withheld information from you that it was required to provide to you under Part B of IDEA.

Hearing Rights

34 CFR §300.512

General

You have the right to represent yourself at a due process hearing (including a hearing relating to disciplinary procedures) or an appeal with a hearing to receive additional evidence, as described under the subheading, ***Appeal of decisions; impartial review***. In addition, any party to a hearing has the right to:

- 1) Be accompanied and advised by an attorney and/or persons with special knowledge or training regarding the problems of children with disabilities;
- 2) Be represented at the hearing by an attorney **who is eligible to practice law in Idaho**;
- 3) Present evidence and confront, cross-examine, and require the attendance of witnesses;
- 4) Prohibit the introduction of any evidence at the hearing that has not been disclosed to the other party at least five business days before the hearing;
- 5) Obtain a written, or, at your option, electronic, word-for-word record of the hearing; **and**
- 6) Obtain written, or, at your option, electronic findings of fact and decisions.

Additional disclosure of information

At least five business days prior to a due process hearing, you and the school district **or charter**

must disclose to each other all evaluations completed by that date and recommendations based on those evaluations that you or the school district [or charter](#) intend to use at the hearing.

A hearing officer may prevent any party that fails to comply with this requirement from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

Parental rights at hearings

You must be given the right to:

- 1) Have your child present at the hearing;
- 2) Open the hearing to the public; **and**
- 3) Have the record of the hearing, the findings of fact and decisions provided to you at no cost.

[Hearing Decisions](#)

34 CFR §300.513

Decision of the hearing officer

A hearing officer's decision on whether your child received a free appropriate public education (FAPE) must be based on evidence and arguments that directly relate to FAPE.

In matters alleging a procedural violation (such as "an incomplete IEP Team"), a hearing officer may find that your child did not receive FAPE only if the procedural violations:

- 1) Interfered with your child's right to a free appropriate public education (FAPE);
- 2) Significantly interfered with your opportunity to participate in the decision-making process regarding the provision of a free appropriate public education (FAPE) to your child; **or**
- 3) Caused your child to be deprived of an educational benefit.

None of the provisions described above can be interpreted to prevent a hearing officer from ordering a school district [or charter](#) to comply with the requirements in the procedural safeguards section of the Federal regulations under Part B of IDEA (34 CFR §§300.500 through 300.536).

Separate request for a due process hearing

Nothing in the procedural safeguards section of the Federal regulations under Part B of IDEA (34 CFR §§300.500 through 300.536) can be interpreted to prevent you from filing a separate due process complaint on an issue separate from a due process complaint already filed.

Findings and decision provided to the advisory panel and general public

The State Educational Agency or the school district [or charter](#) (whichever was responsible for your hearing), after deleting any personally identifiable information, must:

- 1) Provide the findings and decisions in the due process hearing or appeal to the State

special education advisory panel; **and**

- 2) Make those findings and decisions available to the public.

APPEALS

Finality of Decision; Appeal; Impartial Review

34 CFR §300.514

Finality of hearing decision

A decision made in a due process hearing (including a hearing relating to disciplinary procedures) is final, except that any party involved in the hearing (you or the school district [or charter](#)) may appeal the decision by bringing a civil action, as described under the heading *Civil Actions, Including the Time Period in Which to File Those Actions*.

Timelines and Convenience of Hearings and Reviews

34 CFR §300.515

The State Educational Agency must ensure that not later than 45 calendar days after the expiration of the 30-calendar-day period for resolution meetings **or**, as described under the sub-heading *Adjustments to the 30-calendar-day resolution period*, not later than 45 calendar days after the expiration of the adjusted time period:

- 1) A final decision is reached in the hearing; **and**
- 2) A copy of the decision is mailed to each of the parties.

A hearing officer may grant specific extensions of time beyond the 45-calendar-day time period described above at the request of either party (you or the school district [or charter](#)).

Each hearing must be conducted at a time and place that is reasonably convenient to you and your child.

[The hearing officer's decision shall be implemented not later than fourteen \(14\) calendar days from the date of issuance unless a civil action is filed, as discussed below.](#)

Civil Actions, Including the Time Period in Which to File Those Actions

34 CFR §300.516

General

Any party (you or the school district [or charter](#)) who does not agree with the findings and decision in the due process hearing (including a hearing relating to disciplinary procedures) has the right to bring a civil action with respect to the matter that was the subject of the due process

hearing. The action may be brought in a State court of competent jurisdiction (a State court that has authority to hear this type of case) or in a district court of the United States without regard to the amount in dispute.

Time limitation

The party (you or the school district or charter) bringing the civil action shall have twenty-eight (28) calendar days from the date of issuance of the hearing officer's decision to file for a state court review, or forty-two (42) calendar days to file in federal district court, from the date of issuance of the hearing officer's decision. ~~the decision of the hearing officer to file a civil action.~~

~~IDAPA 08.02.03.109.05g~~

Additional procedures

Computation of time: In computing any period of time set by the IDEA, the day of the event from which the period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or legal holiday. The number of days identified shall be calendar days, unless otherwise specified.

In any civil action, the court:

- 1) Receives the records of the administrative proceedings;
- 2) Hears additional evidence at your request or at the school district's or charter's request;
and
- 3) Bases its decision on the preponderance of the evidence and grants the relief that the court determines to be appropriate.

Under appropriate circumstances, judicial relief may include reimbursement of private school tuition and compensatory education services.

Jurisdiction of district courts

The district courts of the United States have authority to rule on actions brought under Part B of IDEA without regard to the amount in dispute.

Rule of construction

Nothing in Part B of IDEA restricts or limits the rights, procedures, and remedies available under the U.S. Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973 (Section 504), or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under Part B of IDEA, the due process procedures described above must be exhausted to the same extent as would be required if the party filed the action under Part B of IDEA. This means that you may have remedies available under other laws that overlap with those available under IDEA, but in general, to obtain relief under those other laws, you must first use the available administrative remedies under IDEA (i.e., the due process complaint; resolution process, including the resolution meeting; and impartial due process hearing procedures) before going directly into court, unless an exception applies.

The Child's Placement While the Due Process Complaint and Hearing are Pending

34 CFR §300.518

Except as provided below under the heading ***PROCEDURES WHEN DISCIPLINING CHILDREN WITH DISABILITIES***, once a due process complaint is sent to the other party, during the resolution process time period, and while waiting for the decision of any impartial due process hearing or court proceeding, unless you and the State or school district **or charter** agree otherwise, your child must remain in his or her current educational placement.

If the due process complaint involves an application for initial admission to public school **including a charter school**, your child, with your consent, must be placed in the ~~regular~~-public school ~~program~~ until the completion of all such proceedings.

If the due process complaint involves an application for initial services under Part B of IDEA for a child who is transitioning from being served under Part C of IDEA to Part B of IDEA and who is no longer eligible for Part C services because the child has turned three, the school district **or charter** is not required to provide the Part C services that the child has been receiving. If the child is found eligible under Part B of IDEA and you consent for your child to receive special education and related services for the first time, then, pending the outcome of the proceedings, the school district **or charter** must provide those special education and related services that are not in dispute (those which you and the school district **or charter** both agree upon).

If a hearing officer in a due process hearing conducted by the State Educational Agency agrees with you that a change of placement is appropriate, that placement must be treated as your child's current educational placement where your child will remain while waiting for the decision of any impartial due process hearing or court proceeding.

Attorneys' Fees

34 CFR §300.517

General

In any **civil** action or proceeding brought under Part B of IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to you, if you prevail (win).

In any action or proceeding brought under Part B of IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to a prevailing State Educational Agency or school district **or charter**, to be paid by your attorney, if the attorney: (a) filed a complaint or court case that the court finds is frivolous, unreasonable, or without foundation; **or** (b) continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; **or**

In any action or proceeding brought under Part B of IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to a prevailing State Educational Agency or school district **or charter**, to be paid by you or your attorney, if your request for a due process hearing or later court case was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to unnecessarily increase the cost of the action or proceeding (hearing).

Award of fees

A court awards reasonable attorneys' fees as follows:

- 1) Fees must be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded.
- 2) Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under Part B of IDEA for services performed after a written offer of settlement is made to you if:
 - a) The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of a due process hearing or State-level review, at any time more than 10 calendar days before the proceeding begins;
 - b) The offer is not accepted within 10 calendar days; **and**
 - c) The court or administrative hearing officer finds that the relief finally obtained by you is not more favorable to you than the offer of settlement.

Despite these restrictions, an award of attorneys' fees and related costs may be made to you if you prevail and you were substantially justified in rejecting the settlement offer.

Fees may not be awarded relating to any meeting of the individualized education program (IEP) ~~Team~~-team unless the meeting is held as a result of an administrative proceeding or court action.

Fees also may not be awarded for a mediation as described under the heading ***Mediation***.

A resolution meeting, as described under the heading ***Resolution Process***, is not considered a meeting convened as a result of an administrative hearing or court action, and also is not considered an administrative hearing or court action for purposes of these attorneys' fees provisions.

The court reduces, as appropriate, the amount of the attorneys' fees awarded under Part B of IDEA, if the court finds that:

- 1) You, or your attorney, during the course of the action or proceeding, unreasonably delayed the final resolution of the dispute;
- 2) The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably similar skill, reputation, and experience;
- 3) The time spent and legal services furnished were excessive considering the nature of the action or proceeding; **or**
- 4) The attorney representing you did not provide to the school district **or charter** the appropriate information in the due process request notice as described under the heading ***Due Process Complaint***.

However, the court may not reduce fees if the court finds that the State or school district **or charter** unreasonably delayed the final resolution of the action or proceeding or there was a violation under the procedural safeguards provisions of Part B of IDEA.

PROCEDURES WHEN DISCIPLINING CHILDREN WITH DISABILITIES

Authority of School Personnel

34 CFR §300.530

Case-by-case determination

School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change of placement, made in accordance with the following requirements related to discipline, is appropriate for a child with a disability who violates a school code of student conduct.

General

To the extent that they also take such action for children without disabilities, school personnel may, for not more than **10 school days** in a row, remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension. School personnel may also impose additional removals of the child of not more than **10 school days** in a row in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement (see the heading *Change of Placement Because of Disciplinary Removals* for the definition).

Once a child with a disability has been removed from his or her current placement for a total of **10 school days** in the same school year, the school district [or charter](#) must, during any subsequent days of removal in that school year, provide services to the extent required below under the sub- heading *Services*.

Additional authority

If the behavior that violated the student code of conduct was not a manifestation of the child's disability (see the subheading *Manifestation determination*) and the disciplinary change of placement would exceed **10 school days** in a row, school personnel may apply the disciplinary procedures to that child with a disability in the same manner and for the same duration as it would to children without disabilities, except that the school must provide services to that child as described below under *Services*. The child's IEP Team determines the interim alternative educational setting for such services.

Services

The school district ~~does not~~ [or charter is not required to](#) provide services to a child with a disability or a child without a disability who has been removed from his or her current placement for **10 school days or less** in that school year.

A child with a disability who is removed from the child's current placement for **more than 10 school days** and the behavior is not a manifestation of the child's disability (see subheading, *Manifestation determination*) or who is removed under special circumstances (see the subheading, *Special circumstances*) must:

- 1) Continue to receive educational services (have available a free appropriate public education), so as to enable the child to continue to participate in the general education curriculum, although in another setting (that may be an interim alternative educational setting), and to progress toward meeting the goals set out in the child's IEP; **and**
- 2) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, which are designed to address the behavior violation so that it does not happen again.

After a child with a disability has been removed from his or her current placement for **10 school days** in that same school year, and **if** the current removal is for **10 school days** in a row or less **and** if the removal is not a change of placement (see definition below), **then** school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

If the removal is a change of placement (see the heading, ***Change of Placement Because of Disciplinary Removals***), the child's IEP Team determines the appropriate services to enable the child to continue to participate in the general education curriculum, although in another setting (that may be an interim alternative educational setting), and to progress toward meeting the goals set out in the child's IEP.

Manifestation determination

Within **10 school days** of any decision to change the placement of a child with a disability because of a violation of a code of student conduct (except for a removal that is for **10 school days** in a row or less and not a change of placement), the school district **or charter**, you, and other relevant members of the IEP Team (as determined by you and the school district **or charter**) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by you to determine:

- 1) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; **or**
- 2) If the conduct in question was the direct result of the school district's **or charter's** failure to implement the child's IEP.

If the school district, **or charter**, you, and other relevant members of the child's IEP Team determine that either of those conditions was met, the conduct must be determined to be a manifestation of the child's disability.

If the school district, **or charter**, you, and other relevant members of the child's IEP Team determine that the conduct in question was the direct result of the school district's **or charter's** failure to implement the IEP, the school district **or charter** must take immediate action to remedy those deficiencies.

Determination that behavior was a manifestation of the child's disability

If the school district, **or charter**, you, and other relevant members of the IEP Team determine that the conduct was a manifestation of the child's disability, the IEP Team must either:

- 1) Conduct a functional behavioral assessment, unless the school district **or charter** had conducted a functional behavioral assessment before the behavior that resulted in the

change of placement occurred, and implement a behavioral intervention plan for the child; or

- 2) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior.

Except as described below under the sub-heading **Special circumstances**, the school [or charter](#) must return your child to the placement from which your child was removed, unless you and the district [or charter](#) agree to a change of placement as part of the modification of the behavioral intervention plan.

Special circumstances

Whether or not the behavior was a manifestation of your child's disability, school personnel may remove a student to an interim alternative educational setting (determined by the child's IEP Team) for not more than 45 school days, if your child:

- 1) Carries a weapon (see the definition below) to school or has a weapon at school, on school premises, or at a school function under the jurisdiction of the State Educational Agency or a school district [or charter](#);
- 2) Knowingly has or uses illegal drugs (see the definition below), or sells or solicits the sale of a controlled substance, (see the definition below), while at school, on school premises, or at a school function under the jurisdiction of the State Educational Agency or a school district [or charter](#); or
- 3) Has inflicted serious bodily injury (see the definition below) upon another person while at school, on school premises, or at a school function under the jurisdiction of the State Educational Agency or a school district [or charter](#).

Definitions

Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.

Serious bodily injury has the meaning given the term "serious bodily injury" under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.

Weapon has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

Notification

On the date it makes the decision to make a removal that is a change of placement of your child because of a violation of a code of student conduct, the school district [or charter](#) must notify you of that decision and provide you with a procedural safeguards notice.

Change of Placement Because of Disciplinary Removals

34 CFR §300.536

A removal of your child with a disability from your child's current educational placement is a **change of placement** if:

- 1) The removal is for more than 10 school days in a row; **or**
- 2) Your child has been subjected to a series of removals that constitute a pattern because:
 - a) The series of removals total more than 10 school days in a school year;
 - b) Your child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
 - c) Of such additional factors as the length of each removal, the total amount of time your child has been removed, and the proximity of the removals to one another.

Whether a pattern of removals constitutes a change of placement is determined on a case-by-case basis by the school district **or charter** and, if challenged, is subject to review through due process and judicial proceedings.

Determination of Setting

34 CFR §300.531

The individualized education program (IEP) Team determines the interim alternative educational setting for removals that are **changes of placement**, and removals under the subheadings *Additional authority* and *Special circumstances*.

Appeal

34 CFR §300.532

General

You may file a due process complaint (see the heading *Due Process Complaint Procedures*) to request a due process hearing if you disagree with:

- 1) Any decision regarding placement made under these discipline provisions; **or**
- 2) The manifestation determination described above.

The school district **or charter** may file a due process complaint (see above) to request a due process hearing if it believes that maintaining the current placement of your child is substantially likely to result in injury to your child or to others.

Authority of hearing officer

A hearing officer that meets the requirements described under the subheading *Impartial hearing officer* must conduct the due process hearing and make a decision. The hearing officer may:

- 1) Return your child with a disability to the placement from which your child was removed if the hearing officer determines that the removal was a violation of the requirements described under the heading *Authority of School Personnel*, or that your child's behavior was a manifestation of your child's disability; **or**
- 2) Order a change of placement of your child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of your child is substantially likely to result in injury to your child or to others.

These hearing procedures may be repeated, if the school district **or charter** believes that returning your child to the original placement is substantially likely to result in injury to your child or to others.

Whenever you or a school district **or charter** files a due process complaint to request such a hearing, a hearing must be held that meets the requirements described under the headings *Due Process Complaint Procedures*, *Hearings on Due Process Complaints*, except as follows:

- 1) The State Educational Agency or school district **or charter** must arrange for an expedited due process hearing, which must occur within **20** school days of the date the hearing is requested and must result in a determination within **10** school days after the hearing.
- 2) Unless you and the school district **or charter** agree in writing to waive the meeting, or agree to use mediation, a resolution meeting must occur within **seven** calendar days of receiving notice of the due process complaint. The hearing may proceed unless the matter has been resolved to the satisfaction of both parties within **15** calendar days of receipt of the due process complaint.
- 3) A State may establish different procedural rules for expedited due process hearings than it has established for other due process hearings, but except for the timelines, those rules must be consistent with the rules in this document regarding due process hearings.

You or the school district **or charter** may appeal the decision in an expedited due process hearing in the same way as for decisions in other due process hearings (see the heading *Appeal*).

Placement During Appeals

34 CFR §300.533

When, as described above, you or the school district **or charter** file a due process complaint related to disciplinary matters, your child must (unless you and the State Educational Agency or school district **or charter** agree otherwise) remain in the interim alternative educational setting pending the decision of the hearing officer, or until the expiration of the time period of removal as provided for and described under the heading *Authority of School Personnel*, whichever occurs first.

Protections for Children Not Yet Eligible for Special Education and Related Services

34 CFR §300.534

General

If your child has not been determined eligible for special education and related services and violates a code of student conduct, but the school district [or charter](#) had knowledge (as determined below) before the behavior that brought about the disciplinary action occurred, that your child was a child with a disability, then your child may assert any of the protections described in this notice.

Basis of knowledge for disciplinary matters

A school district [or charter](#) will be deemed to have knowledge that your child is a child with a disability if, before the behavior that brought about the disciplinary action occurred:

- 1) You expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or to your child's teacher that your child is in need of special education and related services;
- 2) You requested an evaluation related to eligibility for special education and related services under Part B of IDEA; **or**
- 3) Your child's teacher or other school district [or charter](#) personnel expressed specific concerns about a pattern of behavior demonstrated by your child directly to the school district's [or charter's](#) director of special education or to other supervisory personnel of the school district [or charter](#).

Exception

A school district [or charter](#) would not be deemed to have such knowledge if:

- 1) You have not allowed an evaluation of your child or have refused special education services; **or**
- 2) Your child has been evaluated and determined to not be a child with a disability under Part B of IDEA.

Conditions that apply if there is no basis of knowledge

If prior to taking disciplinary measures against your child, a school district [or charter](#) does not have knowledge that your child is a child with a disability, as described above under the sub-headings ***Basis of knowledge for disciplinary matters*** and ***Exception***, your child may be subjected to the disciplinary measures that are applied to children without disabilities who engage in comparable behaviors.

However, if a request is made for an evaluation of your child during the time period in which your child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner.

Until the evaluation is completed, your child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

If your child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the school district or charter, and information provided by you, the school district [or charter](#) must provide special education and related services in accordance with Part B of IDEA, including the disciplinary requirements described above.

Referral to and Action by Law Enforcement and Judicial Authorities

34 CFR §300.535

Part B of IDEA does not:

- 1) Prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities; or
- 2) Prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

Transmittal of records

If a school district [or charter](#) reports a crime committed by a child with a disability, the school district [or charter](#):

- 1) Must ensure that copies of the child's special education and disciplinary records are transmitted for consideration by the authorities to whom the agency reports the crime; and
- 2) May transmit copies of the child's special education and disciplinary records only to the extent permitted by the Family Educational Rights and Privacy Act (FERPA).

REQUIREMENTS FOR UNILATERAL PLACEMENT BY PARENTS OF CHILDREN IN PRIVATE SCHOOLS AT PUBLIC EXPENSE

General

34 CFR §300.148

Part B of IDEA does not require a school district [or charter](#) to pay for the cost of education, including special education and related services, of your child with a disability at a private school or facility if the school district [or charter](#) made a free appropriate public education (FAPE) available to your child and you choose to place the child in a private school or facility. However, the school district where the private school is located must include your child in the population whose needs are addressed under the Part B provisions regarding children who have been placed by their parents in a private school under 34 CFR §§300.131 through 300.144.

Reimbursement for private school placement

If your child previously received special education and related services under the authority of a school district [or charter](#), and you choose to enroll your child in a private preschool, elementary school, or secondary school without the consent of or referral by the school district [or charter](#), a court or a hearing officer may require the [responsible](#) agency to reimburse you for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education (FAPE) available to your child in a timely manner prior to that enrollment and that the private placement is appropriate. A hearing officer or court may find your placement to be appropriate, even if the placement does not meet the State standards that apply to education provided by the State Educational Agency and school districts [or charters](#).

Limitation on reimbursement

The cost of reimbursement described in the paragraph above may be reduced or denied:

- 1) If:
 - a) At the most recent individualized education program (IEP) meeting that you attended prior to your removal of your child from the public school you did not inform the IEP Team that you were rejecting the placement proposed by the school district [or charter](#) to provide FAPE to your child, including stating your concerns and your intent to enroll your child in a private school at public expense; or
 - b) At least 10 business days (including any holidays that occur on a business day) prior to your removal of your child from the public school [or charter](#), you did not give written notice to the school district [or charter](#) of that information;
- 2) If, prior to your removal of your child from the public school, the school district [or charter](#) provided prior written notice to you of its intent to evaluate your child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but you did not make the child available for the evaluation; **or**
- 3) Upon a court's finding that your actions were unreasonable.

However, the cost of reimbursement:

- 1) Must not be reduced or denied for failure to provide the notice if: (a) The school [or charter](#) prevented you from providing the notice; (b) You had not received notice of your responsibility to provide the notice described above; or (c) Compliance with the requirements above would likely result in physical harm to your child; **and**
- 2) May, in the discretion of the court or a hearing officer, not be reduced or denied for your failure to provide the required notice if:
 - a) You are not literate or cannot write in English; or
 - b) Compliance with the above requirement would likely result in serious emotional harm to your child.

2025 OSBE Proposed Rule Public Comment Summary

Summary of Comments

During the 21-day comment Period, October 1 through October 22, there were a total of 26 comments submitted. The comments pertained to different aspects of the sections of the proposed rules; however, the majority were surrounding the updated incorporated by reference document Special Education Manual in 08.0203.2501. All public comments submitted to the State Board of Education were received through email. The Idaho Department of Education (IDE) received their own feedback and comments separately from the State Board of Education. The summary of their feedback and comments is included and labeled in The State Board of Education's summary.

There were a total of 5 Rules open for Public comment during this comment period (October 1-22).

1. IDAPA – 08-0202-2501 – Rules Governing Uniformity – Regarding CTE endorsements and Code of Ethics
2. IDAPA – 08-0203-2501 – Rules Governing Thoroughness – Regarding SS content standards
3. IDAPA – 08-0203-2502 – Rules Governing Thoroughness – Regarding Special Education Manual
4. IDAPA – 08-0205-2501 – Rules Governing Pay for Success Contracting – Regarding the entire rule removal
5. IDAPA – 55-0103-2501 – Rules of Career Technical Centers– Regarding definition removal

No comments were received for the other rules listed below.

- IDAPA – 08-0205-2501 – Rules Governing Pay for Success Contracting – Regarding the entire rule removal
- IDAPA – 55-0103-2501 – Rules of Career Technical Centers– Regarding definition removal

Rules Governing Uniformity 08.0202.2501

Summary: The proposed changes to subsection 08.02.02.076, Code of Ethics for Idaho Professional Educators aim to reduce unethical interactions between educators and students by limiting educator/student communications to district approved devices and platforms that can be viewed and monitored by district staff.

Additional changes are regarding CTE certification. To add the word “standard” prior to the CTE Administrator certificate, indicating it is in the same classification as other standard certificates and eligible for reinstatement as well as other general clarification around current requirements for using alternative routes to add endorsement for current certificate holders, eliminating duplicative language regarding minimum required coursework for all CTE instructional staff, and adds a reference to the new lifetime certificate.

Public Comment (2) – Amy White

The comment was received in email form. The commenter supports the goal of ensuring professional communication between educators and students but suggests revising the proposed rule to allow communication on district-approved devices, not just district-owned devices. They note that in some

situations—such as extracurricular activities or emergencies—using a personal device may be appropriate if approved by the district. This flexibility would maintain professional standards while accommodating practical communication needs.

Public Comment (3) – Kate Haas

The comment was received in email form. The commenter identifies a potential loophole in Rule 08.02.02.076.06(f) concerning inappropriate use of school technology. While the rule prohibits engaging in sexually explicit activity on school devices or networks, it does not explicitly cover school-based accounts (e.g., school Google accounts), which can be accessed from any device or location. The commenter suggests expanding the rule to include activity conducted through school accounts, regardless of the device or network used, to prevent inappropriate behavior outside of school premises.

Public Comment (19) – Kristi Enger

The commenter expresses concern about proposed changes to IDAPA 08.02.02.021, specifically the section on Alternative Authorization – Teacher to New Endorsement. They explain that the current rule has allowed flexibility for teachers to add endorsements across instructional areas, including between CTE and non-CTE fields, which has helped districts fill positions efficiently. The proposed new language—requiring that endorsements match the “type of instructional certificate” held—would restrict that flexibility and make it harder for teachers to earn new endorsements, adding cost and time burdens. The commenter also cautions against removing language that supports CTE-specific training, arguing that it’s essential preparation for success in CTE classrooms. They recommend keeping that section intact or revising it to allow equivalent “training” rather than only formal coursework, emphasizing that these changes would maintain teacher support and program quality without adding unnecessary barriers.

08.0202.2501 SUMMARY OF COMMENTS (3)

Two comments addressed the Code of Ethics for Idaho Professional Educators (08.02.02.076). Both supported strengthening professional boundaries between educators and students but recommended clarifying language—one suggesting communication be allowed on district-approved (not just district-owned) devices, and another urging the rule to also cover misconduct through school accounts accessed off campus.

A third comment focused on Alternative Authorization – Teacher to New Endorsement (08.02.02.021), opposing limits that would restrict teachers from adding endorsements across certificate types. The commenter emphasized that current flexibility helps districts fill positions and supports professional growth, recommending retention of CTE-specific training language or equivalent options to reduce barriers for educators.

Rules Governing Thoroughness 08.0203.2501

Summary: The proposed rule and redline describe/show that SDE will be revising the Special Education Manual incorporated by reference document.

Public Comment (4) – Rebecca Summerlin

The comment was received in email form. The commenter supports changing special education evaluation timelines from calendar days to school days, arguing this would create a fairer and more practical system

for completing student evaluations. They explain that calendar days continue to elapse even when schools are closed—such as during holidays, breaks, or unexpected closures—reducing the actual working time teams have to conduct assessments and meetings. This issue is especially significant for districts with four-day school weeks, which already lose a workday each week under the same calendar-based deadlines.

They emphasize that calendar-day deadlines pressure staff to rush evaluations, which can compromise quality, collaboration, and student outcomes. In contrast, adopting a 45 school-day timeline would ensure evaluations occur when staff and resources are available

The commenter, a special education teacher with 12 years of experience, argues that evaluation timelines should be based on school days rather than calendar days. They explain that using calendar days creates unrealistic expectations, since time continues to count down during breaks, professional development days, and closures—periods when staff and students are not present. This is particularly burdensome for districts on four-day school weeks.

Public Comment (5) – Kerstyn Martin

The commenter advocates for a 45 school day timeline, which would reflect actual working conditions, allow for more thorough and collaborative evaluations, and prevent compliance issues caused by factors outside a district's control. The commenter notes that this approach is already accepted in other states through OSEP audits and maintains accountability while supporting fairer, more practical implementation.

Public Comment (6) – Letha Blick

The commenter urges the Idaho State Board of Education to adopt a 45 school day evaluation timeline instead of the 60 calendar day timeline proposed in the draft Special Education Manual. (Attachment references were provided in the email)

Argument points

- Calendar day timelines are unrealistic and inequitable, especially for districts with 4-day school weeks or extended breaks (holiday, summer, harvest, etc.), because days continue to count when school is not in session.
- A 45 school day rule aligns with Idaho's former "State Exception Rule," which excluded breaks of 5 days or more, and produces nearly identical completion dates under typical school calendars.
- Using calendar days can cause evaluations to fall during school breaks, making it impossible to complete assessments, hold meetings, or collect intervention data within the required period—potentially exposing districts to due process complaints or FAPE (Free Appropriate Public Education) violations.
- Implementing a 60-calendar-day rule would force districts to extend or renegotiate staff contracts (teachers, psychologists, SLPs, OTs, PTs, nurses, etc.) to cover breaks, which is financially and logistically unfeasible given staffing shortages and limited budgets.

Citing's under IDEA

- The IDEA regulation allows states to define their own "reasonable" timelines for evaluations.
- Several states—including California, Florida, Michigan, Ohio, Missouri, North Carolina, Tennessee, Utah, and Nevada—already use school-day-based timelines that have been approved through OSEP's Differentiated Monitoring and Support (DMS) audits.

- Recent DMS audits (Alaska 2023, Colorado 2024, Nevada 2024, Kansas 2025) confirm that 45-school-day timelines are federally compliant.

Additionally, the letter includes supportive comments from multiple Idaho special education directors who describe staffing shortages, scheduling challenges, and lack of summer personnel as major barriers to compliance with a 60-calendar-day rule.

Public Comment (7) – Letha Blick

The commenter asks the Idaho State Board of Education to add a formal appeal process to Chapter 13 of the 2025 Idaho Special Education Manual, which governs state complaint procedures.

They explain that currently, once the Idaho Department of Education (IDE) issues findings or corrective actions following a state complaint, there is no avenue for appeal. Districts that disagree with those findings can only file for a due process hearing, but the IDE is usually dismissed from such cases—leaving no meaningful way to challenge the IDE’s determinations short of filing an expensive and burdensome lawsuit in federal court.

The commenter argues that this lack of review undermines fairness, transparency, and accountability in the state complaint system. They propose a detailed, multi-step appeal framework.

1. Informal review with IDE to clarify or resolve disputes;
2. Formal written appeal within 30 days;
3. Independent review panel (within IDE or via the Office of Administrative Hearings) empowered to uphold, modify, or overturn findings;
4. Decision within 45 days;
5. Further legal recourse available if either party disagrees.

They note that **other states** already have similar procedures, and adopting one would align Idaho’s practices with IDEA’s intent for balanced, collaborative dispute resolution. (Attachment reference were provided in the email)

Public Comment (8) – Suzanna Altsuler

The commenter expresses support for adopting a 45-school-day evaluation timeline. They explain that in rural districts with limited staff spread across large geographic areas, it is difficult to complete evaluations within the current 60-calendar-day limit—especially during extended breaks. A 45-school-day timeline would ensure that students are present during the evaluation period and help alleviate logistical challenges faced by service providers.

Public Comment (9) – Debi Smith

The commenter supports approval of the revised Idaho Special Education Manual, noting they helped with its rewrite. They say it was a collaborative, statewide effort to align with IDEA and state law while improving clarity, accessibility, and support for students with disabilities. Key updates include clearer language, added guidance for homeschool students, and better organization. They urge the Board to approve the manual, emphasizing that it prioritizes students’ needs and strengthens special education practice in Idaho.

Public Comment (10) – Letha Blick

The commenter recommends expanding Section 3 (Charter Schools and Dual Enrollment) to provide clearer guidance and safeguards for both districts and charter schools. Specifically, they suggest:

- Adding language to ensure dual enrollment because it follows open enrollment capacity rules, giving priority to full-time district students when programs are full or closed to open enrollment.
- Clarifying how ADA and Child Count funding will be proportionally allocated through a required MOU between the public district and charter school.
- Establishing a process for resolving disputes if the district and charter school cannot agree on MOU terms.
- Requiring the manual to list mandatory MOU elements, including:
 - o Service responsibilities (e.g., who provides 1:1 aides or nurses for medically fragile students).
 - o Transportation arrangements.
 - o Financial agreements for participation in district programs.
 - o Enrollment priorities and termination conditions for the agreement (e.g., safety, nonpayment, or lack of staffing).

The commenter emphasizes that these clarifications would help prevent confusion, ensure fair access, and address practical challenges—particularly for students needing intensive support services.

Public Comment (11) – Letha Blick

The commenter recommends that Idaho maintain its current rule ending FAPE (Free Appropriate Public Education) at the end of the semester in which a student turns 21. They argue this aligns with Idaho Code, which defines “school age” as up to age 21, and with IDEA, which allows states to limit FAPE based on their own age requirements for general education students. Extending services until age 22, they contend, would go beyond what state law allows, create funding and staffing burdens, and contradict legislative intent. Using the semester cutoff is described as a consistent, educationally sound approach that supports orderly transitions and resource planning.

Public Comment (12) – Letha Blick

The commenter supports keeping decisions about graduation ceremony participation under local district control. They believe graduation is a recognition of students who have earned their diplomas or met adapted IEP requirements, and that allowing students who refused to complete graduation credits to participate undermines that purpose. The commenter notes that nearly all students, including those with disabilities, met requirements or used adapted pathways, and that the few who did not were given multiple opportunities to do so. They emphasize that local control allows districts to apply fair, consistent standards that reflect community expectations and uphold the integrity of the ceremony.

Public Comment (13) – Gabby Twiss

The commenter believes that only students who have met graduation or IEP requirements should participate in graduation ceremonies. They’re concerned that including students who haven’t met these standards could lessen the meaning of a diploma and cause confusion about its value. While they support

recognizing effort and celebrating all students, they suggest holding a separate event for those who haven't yet graduated, rather than changing the purpose of the graduation ceremony itself.

Public Comment (14) – Gabby Twiss

The commenter is asking for a clear appeal process in the Idaho Special Education Manual for districts that want to challenge IDE findings or corrective actions under Chapter 13. Right now, once a decision is issued, districts have no meaningful way to request review, since the IDE is usually dismissed from due process hearings. They argue that adding an appeal process would make the system fairer, more transparent, and more accountable, giving districts a way to address decisions they believe are incorrect.

Comment (15) – Chynna Hirasaki

The commenter, former state Special Education Director, strongly supports approving the proposed Idaho Special Education Manual. They emphasize that the revision process was transparent, collaborative, and focused on students, with input from parents, educators, advocates, and legal experts across the state. The updates are designed to ensure IDEA compliance, improve clarity and consistency, and prioritize timely evaluation and services for students with disabilities. They note that removing state exceptions for evaluation timelines ensures equitable access for all students and that the Department has provided guidance and resources to support implementation. They urge the Board to approve the Manual as written, highlighting that it provides a clear, legally sound, and student-centered framework for special education in Idaho.

Comment (16) – Stephanie Linder

The commenter, is asking the Board to include a formal appeal process for state complaint findings and corrective actions in Chapter 13 of the Special Education Manual. They note that right now, once a complaint decision is issued, districts have no practical way to challenge it, since the IDE is usually dismissed from due process hearings. They argue that adding an appeal process would make the system fairer, more transparent, and more accountable, protecting students' rights and building trust in the complaint process. They suggest a time-limited, clearly defined review handled by an internal or independent panel to ensure consistency and procedural fairness.

Comment (17) – Julie Mead

The commenter supports the Proposed 2025 Idaho Special Education Manual, highlighting that the revision process was collaborative, thoughtful, and involved input from educators, administrators, parents, and statewide experts. They emphasize that the updates are practical, student-focused, and grounded in real-world experience, not administrative convenience. Key improvements include fixing the initial evaluation timeline to prevent delays caused by school breaks and clarifying the Discipline chapter to better guide districts in addressing challenging behaviors while protecting student rights. Overall, they believe the revisions provide clarity, consistency, and stronger support for students, families, and districts, and urge the Board to approve the manual.

Comment (18) – Joy Jansen

The commenter asks the State Board of Education to reconsider adopting a 45 school-day evaluation timeline instead of the proposed 60 calendar-day timeline in the revised Idaho Special Education Manual. They explain that this approach aligns better with Idaho's previous rule, which excluded long school breaks from the timeline, making it more practical and equitable for districts. They note that special education

directors and school psychologists previously requested this change but were denied and urge the Board to revisit and support the 45 school-day option.

Comment (20) – Lyndon Nguyen

The commenter raises significant concerns that several proposed changes in the 2025 Idaho Special Education Manual weaken parent rights and IDEA compliance. They argue that removing examples and definitions—such as for “change of placement,” “educational program,” and “stay put”—creates ambiguity that could allow districts to limit services or exclude students without proper oversight. They strongly object to allowing districts to implement IEPs over parent objections without due process, saying this violates IDEA’s guarantee of meaningful parent participation. The commenter also calls for stronger enforcement mechanisms to ensure FAPE, proper record access, and agency accountability under federal law. They criticize the quality and impartiality of hearing officers, the lack of clear procedures for discovery and subpoenas, and the overall imbalance of power between parents and districts in due process hearings. Finally, they object to replacing the term “district” with “LEA,” arguing that it misrepresents who may be held responsible under IDEA and ignores recent federal findings that such language is noncompliant.

Comment (21) – Rachelle Nielson

The commenter objects to the revised language about graduation ceremonies, arguing that it removes accountability for students with disabilities to meet their IEP graduation requirements before participating in graduation events. They believe this creates an unfair double standard, since general education students must complete all requirements to participate. The commenter supports maintaining flexibility for individual students through the IEP process but insists that participation in graduation ceremonies should be tied to meeting clearly defined, agreed-upon expectations to ensure fairness and uphold high standards for all students.

Comment (22) – Kristian Beckett

The commenter is an attorney representing parents in special education due process cases. They have stated that while the proposed Idaho Special Education Manual improvements are a positive start, they do not go far enough to protect the rights of students and parents under IDEA. They believe the current system allows schools to circumvent federal requirements and that Idaho should strengthen the manual to ensure fairness, accountability, and enforcement.

They urge stronger accountability and enforcement measures to prevent schools from avoiding legal obligations. Key recommendations included adding clear definitions for “change of placement” and “educational program,” strengthening parent participation and stay-put protections, and establishing an enforcement process for districts that fail to comply. They also recommended consistent use of the term “public agency,” clear qualifications and oversight for hearing officers, and inclusion of a state-level review process for due process decisions. Additional suggestions focused on defining fair hearing procedures, clarifying burden of proof rules, limiting the use of civil trespass orders for disability-related behavior, ensuring timely access to student records, and empowering hearing officers to enforce compliance. The commenter also emphasized the importance of parent and advocate involvement in developing and revising special education policy.

Comment (23) – Rachelle Nielson

The commenter urges the Idaho State Board of Education to reconsider the proposed 60-calendar-day evaluation timeline in the new Special Education Manual and instead adopt a 45-school-day timeline. They argue that 45 school days better align with the previous state rule that excluded long breaks and is more practical for districts to meet. Using calendar examples, they showed that a 60-day limit would often force evaluations to be completed during holiday or summer breaks, reducing available time for testing and collaboration. They also warned that the proposed change could increase due process complaints and staffing burdens, especially given shortages of special education personnel. The commenter noted that several other states use a 45-school-day timeline, which they said balances compliance with realistic implementation.

Comment (24) – Romona Lee

The commenter generally supports the proposed updates to Idaho’s Special Education Manual, especially the clearer glossary definitions—such as the inclusion of “counseling services”—though they note a small grammatical fix is needed. They raise concerns about the financial impact of extending services to age 22 and about the proposed 60-calendar-day evaluation timeline, arguing that it could unintentionally delay referrals and suggesting instead a 45-school-day limit with no exceptions. They appreciate clarifications around Independent Educational Evaluations (IEEs) but find some of the new language confusing and potentially allowing multiple IEEs at public expense. They also question the removal of the six-month residency rule for foster parents’ decision-making authority, seek clarification on whether paraprofessional qualifications from other states will be accepted, and support updates regarding private school evaluations. Finally, they ask for clearer language on how LEAs should define “appropriate services” for dually-enrolled homeschool students.

Comment (25) – Joy Jansen

The commenter requests that the State Board of Education provide more comprehensive guidance for serving students in juvenile facilities. They note that the current Juvenile Detention and Special Education document only addresses evaluation and instruction but lacks direction on key areas such as discipline, manifestation determinations, and how IDEA requirements align with state Juvenile Justice Services policies.

08.0203.2501 SUMMARY OF COMMENTS (21)

The majority of comments focused on evaluation timelines, with most urging the Board to replace the proposed 60-calendar-day rule with a 45-school-day timeline. Commenters said this would be more practical, especially for rural or four-day-week districts, prevent evaluation delays during holidays and summer, and align with Idaho’s previous rule and other states’ practices.

Several commenters called for adding a formal appeal process to the manual’s state complaint procedures, arguing that districts currently have no way to appeal Idaho Department of Education findings or corrective actions. They said an appeal option would promote fairness, transparency, and accountability.

A few commenters expressed strong support for approving the manual as written, praising the collaborative and statewide effort to align with IDEA and improve clarity, discipline guidance, and parent engagement.

Others raised concerns about parent rights and IDEA compliance, saying the revisions weaken procedural safeguards by removing key definitions and limiting parent participation or due process protections.

Several comments opposed allowing students who haven't met graduation or IEP requirements to participate in graduation ceremonies, calling it unfair and inconsistent with general education standards.

Additional feedback included concerns about extending FAPE eligibility to age 22 (due to funding and legal conflicts), requests for clearer guidance on charter school and dual enrollment procedures, and technical suggestions about glossary terms, paraprofessional qualifications, foster parent definitions, requesting comprehensive guidance for serving students in juvenile facilities addressing more than evaluation and instruction, and homeschool provisions.

Rules Governing Thoroughness 08.0203.2502

Summary: The proposed rule and redline describe/show that SDE will be revising the k-12 social studies content standards incorporated by reference documents, including Grade 4 Social Studies and Grades 6-12 U.S. History I content standards. Revisions also include a new section on Grades 9-12 Western Civilization.

Public Comment (1) – David Talcot

The comment was received in email form. It expresses the support of the revisions made in the k-12 Social Studies Standards proposed.

- They are in support because they believe it reduces ideological bias, particularly with the influence of "20th century progressive ideology" on students thinking. Additionally, they are in support because they believe it is clearer, promotes traditional, and historical American perspective, and represents a positive overall improvement.

Public Comment (26 Received by IDE) – Callie Avondet

The comment was received in email form by the SDE. They express their hope that the 4th grade social studies standards include the study of influential people in Idaho history. Specifically, Rebecca Brown Mitchell from Idaho Falls/Eagle Rock. The commenter notes that Ms. Mitchell was the driving force behind the passage of women's suffrage in Idaho, successfully lobbied the Idaho legislature for prison reform and to change the age of consent for girls from 10 to 18, and was the first woman to hold the position of legislative chaplain.

08.0203.2502 SUMMARY OF COMMENTS (2)

In support of the changes. Also, would like to see Rebecca Brown Mitchell added to the 4th grade social studies standards.

**PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 20, 2025**

SUBJECT

Pending Rule – Docket No. 08-0203-2502, Rules Governing Thoroughness

REFERENCE

June 2024	Board approved temporary rule, Docket 08-0203-2402, updating content standard approval dates.
August 2024	Board approved temporary rule, Docket 08-0203-2403, updating Special Education Manual and approval dates.
August 2024	Board Approved Proposed rule, Docket 08-0203-2401, updating incorporated by reference, graduation requirements, and removal of special education sections.
November 2024	Board Approved Pending rule, Docket 08-0203-2401, updating incorporated by reference, graduation requirements, and removal of special education sections.
August 2025	Board Approved Proposed rule, Docket 08-0203-2502, updating incorporated by reference, Social Studies k-12 content standards.

APPLICABLE STATUTE, RULE, OR POLICY

Idaho Administrative Code, IDAPA 08.02.03, Rules Governing Thoroughness
Idaho Code Title 67, Chapter 52, Idaho Administrative Procedures Act

BACKGROUND/DISCUSSION

Administrative rules promulgated under the Board's authority include IDAPA 08, IDAPA 55, and IDAPA 47.

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). In 2024, HB563 amended Section 67-5292, Idaho Code, to establish an ongoing five-year cycle for review of all administrative rules.

The Board approved the proposed rule in August 2025. Subsequently, the rule was published in the October 1, 2025, Administrative Bulletin of Negotiated Rulemaking, Vol. 25-10. This publication marks the opening of a formal 21-day public comment period. The public comment period closed on October 22, 2025.

A total of two (2) comments were received regarding the updates to 08-0203-2502. The first comment was in support of the changes being made. The second comment was received by the SDE to include "Rebecca Brown Michell" under the incorporated by reference document section(III)(E)(1)4.SS.1.3, in the list of those who had an impact on western expansion and the creation of the State of Idaho. Based on this feedback received the amendment has been made to the incorporated by reference document to include Rebecca Brown Michell in the list

**PLANNING, POLICY AND GOVERNMENTAL AFFAIRS
NOVEMBER 20, 2025**

of those who had an impact on western expansion and the creation of the State of Idaho section.

The final version of the rule is presented to the Board for approval. If approved, the rule will be submitted to DFM as pending.

The final proposed rule language is presented in the incorporated by reference document as Attachment 3, Pending Rule.

IMPACT

If the Board approves the pending rule, it will move forward for review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code.

All approved pending rules become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

ATTACHMENTS

Attachment 1 – Notice of Pending Rule Docket No. 08-0203-2502

Attachment 2 – Pending Rule Docket No. 08-0203-2502

Attachment 3 – Pending Rule –IBR document Social Studies Content Standards revised redline

Attachment 4 – Comment Summary

BOARD STAFF COMMENTS AND RECOMMENDATIONS

Edits have been made as a result of feedback received are highlighted in yellow in Attachment 3.

Staff recommends approval.

BOARD ACTION

I move to approve pending rule – Docket 08-0203-2502, as submitted in Attachment 3.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

IDAPA 08 – STATE BOARD OF EDUCATION**08.02.03 – RULES GOVERNING THOROUGHNESS****DOCKET NO. 08-0203-2502****NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with [Section 67-5224\(2\)\(c\)](#), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with [Section 67-5224](#), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to [Section 33-105](#), [33-116](#), [33-118](#), and [33-1612](#), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The proposed rule changes are to the Social Studies K-12 content standards incorporated by reference document outlined in subsection 004.01.g, will be reviewed following the 2025 legislative session. The Social Studies standards were reviewed during the 2023-2024 school year and submitted to the Idaho Legislature for final approval during the 2025 session. The Legislature rejected portions of the revised Social Studies standards and would like the standards reviewed again. Based on the 2025 legislative action, revisions to the Social Studies standards have been facilitated by the Idaho Department of Education for legislative consideration during the 2026 session.

Updates from the proposed rule to the pending rule are to the Incorporated by reference Social Studies Content Standards. The updates include adding suffragette Rebecca Brown Michell to the list of individuals who influenced western expansion and the creation of the State of Idaho [(III)(E)14.SS.1.3]. Additionally, several non-substantive clarifications were made: the word “modern” was added to section [(IX)(C)9.12.WC.8]; the phrase “the role of” was inserted to section [(IX)(C)9.12.WC.11]; and the term “experiment” was replaced with “republic” to section [(IX)(G)9.12.WC.49].

The text of the pending rule has been amended in accordance with [Section 67-5227](#), Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 1, 2025, Idaho Administrative Bulletin, [Volume 25-10, pages 168-170](#).

FEE SUMMARY: Pursuant to [Section 67-5224\(2\)\(d\)](#), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: **NA**

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year: **NA**

ASSISTANCE WITH TECHNICAL QUESTIONS: For assistance with technical questions concerning this pending rule, contact Nicholas Wagner at rules@edu.idaho.gov or (208)-488-7586).

DATED this 21st day of November 2025.

Nicholas Wagner, Agency Rules Coordinator Idaho State Board of Education
650 W State St. PO Box 83720

Boise, ID 83720-0037
Phone: (208) 488-7586
Fax: (208) 334-2632

STATE BOARD OF EDUCATION
Rules Governing Thoroughness

Docket No. 08-0203-2502
Proposed Rulemaking

08.02.03 – RULES GOVERNING THOROUGHNESS**000. LEGAL AUTHORITY.**

All rules in this Thoroughness chapter (IDAPA 08.02.03) are promulgated pursuant to the authority of the State Board of Education under Article IX, Section 2 of the Idaho Constitution and under Sections 33-116, 33-118, and 33-1612, Idaho Code. Specific statutory references for particular rules are also noted as additional authority where appropriate. (3-15-22)()

(BREAK IN CONTINUITY OF SECTIONS)**004. INCORPORATION BY REFERENCE.**

The following documents are incorporated into this rule: (3-15-22)

01. The Idaho Content Standards. The Idaho Content Standards as adopted by the State Board of Education. Individual subject content standards are adopted in various years in relation to the curricular materials adoption schedule. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov/board-policies-rules/board-rules/documents-incorporated-by-reference-or-rule/>. (3-15-22)

a. Arts and Humanities Categories: (3-15-22)

i. Dance, as revised and adopted on June 12, 2024; (7-1-25)

ii. Interdisciplinary Humanities, as revised and adopted on June 12, 2024; (7-1-25)

iii. Media Arts, as adopted on June 12, 2024. (7-1-25)

iv. Music, as revised and adopted on June 12, 2024; (7-1-25)

v. Theater, as revised and adopted on June 12, 2024; (7-1-25)

vi. Visual Arts, as revised and adopted on June 12, 2024; (7-1-25)

vii. World languages, as revised and adopted on June 12, 2024. (7-1-25)

b. Computer Science, adopted on June 12, 2024. (7-1-25)

c. Driver Education, as revised and adopted on June 12, 2024. (7-1-25)

d. Health, as revised and adopted on August 24, 2022. (4-6-23)

e. Information and Communication Technology, as revised and adopted on June 12, 2024. (7-1-25)

f. Physical Education, as revised and adopted on August 24, 2022. (4-6-23)

g. Social Studies, as revised and adopted on June 12, 2024. [*note – Grade 4 Social Studies and Grade 6-12 U.S. World History I remain as adopted on November 28, 2016.] August November 20, 2025. (7-1-25)()

STATE BOARD OF EDUCATION
Rules Governing Thoroughness

Docket No. 08-0203-2502
Proposed Rulemaking

h. College and Career Readiness Competencies adopted on June 15, 2017. (3-15-22)

02. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Deaf or Hard of Hearing. As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov/board-policies-rules/board-rules/documents-incorporated-by-reference-or-rule/>. (3-15-22)

03. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Blind or Visually Impaired. As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov/board-policies-rules/board-rules/documents-incorporated-by-reference-or-rule/>. (3-15-22)

04. The Idaho Special Education Manual. The Idaho Special Education Manual as adopted by the State Board of Education on November 21, 2024. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov/board-policies-rules/board-rules/documents-incorporated-by-reference-or-rule/>. (7-1-25)

Idaho Content Standards K-12 Social Studies



IDAHO DEPARTMENT OF EDUCATION
CONTENT AND CURRICULUM | SOCIAL STUDIES

650 W STATE STREET, 2ND FLOOR
BOISE, IDAHO 83702
208 332 6800 OFFICE / 711 TRS
WWW.SDE.IDAHO.GOV

CREATED 04/23/2024

REVISED 07/11/2025 11/20/2025

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The K-12 social studies standards were up for review in 2023 as per the Idaho code, Board of Education Governing Policies & Procedures, Section IV.C. Section 33-1612; IDAPA 08.02.03.004.01, Idaho Code. The Idaho Department of Education worked with a variety of stakeholders to accept nominations for committee members. The final committee was comprised of twenty-five members representing a cross-section of grade levels and roles. This committee included community members, parents, social studies educators from a variety of grade levels and content areas, and post-secondary content experts. The time and effort they put into this revision was invaluable. Throughout the process of the revision of the standards, the working group received both stakeholder feedback and public comments that the revision committee took into consideration. The committee appreciates those who took the time to share their thoughts on the revisions. We hope that the changes to these standards allow them to be useful for all stakeholders, including educators, families, students, and community members. We hope that they bring Idaho into a new chapter of statewide success in social studies education.

Respectfully,

The Social Studies Standards Revision Committee

Leslie Baker	Stewart Gardner	Karen Miller
Matthew Bundy	Jason Hanson	Shaina Nomee
James Carter	Mari Harris	Stacie Pollard
Stacie Christensen	Marta Hernandez	Terry Ryan
Brendan Earle	Julie Hurdman	Jeff Sorenson
Sandra Eaton	Amber Lewis	Norm Stewart
Jim Francis	Tanya Lilley	Evan Townsend
Andrea Fuentes	Jaime Lower	Susan Whipple
Perri Gardner	Casey McLaughlin	

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I. INTRODUCTION

A. What the Idaho Content Standards in Social Studies Do

The standards define what all students are expected to know and be able to do, not how teachers should teach. While the standards focus on what is most essential, they do not describe all that can or should be taught. A great deal is left to the discretion of local school districts, teachers, and curriculum developers. No set of grade-level standards can reflect the great variety of abilities, needs, learning rates, and achievement levels in any given classroom. The standards define neither the support materials that some students may need nor the advanced materials that others may need access to. It is also beyond the scope of the standards to define the full range of support appropriate for English language learners and for students with disabilities. All students must have the opportunity to learn rigorous grade-level standards if they are to access the knowledge and skills that will be necessary in their post-secondary lives.

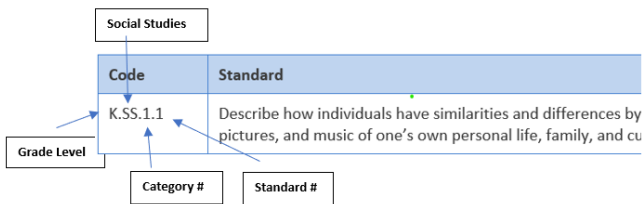
B. Standards vs. Curriculum

No specific curriculum or strategies are required by the State of Idaho to be used to teach the Idaho Content Standards in Social Studies. Local schools and districts make decisions about what resources will be used to teach the standards.

II. ORGANIZATION OF STANDARDS

Each grade band of the K-5 social studies standards is organized into 5 categories: History, Geography, Economics, Civics and Government, and Global Perspectives. The World Geography and Civilizations Grades 6-9 standards are organized into 6 categories: History, Geography, Economics, Civics and Government, Global Perspectives, and Geography or Historical Thinking Skills. United States History I and II, American Government, and Economics are organized by time period or topic.

III. K-5 SOCIAL STUDIES



- A. Kindergarten
1. HISTORY
- Students will build an understanding of the cultural and social development of the United States.

Code	Standard
K.SS.1.1	Describe how individuals have similarities and differences by sharing stories, pictures, and music of one’s own personal life, family, and culture.
K.SS.1.2	Sequence events in the past and present and begin to recognize that things change over time.

2. GEOGRAPHY
- Students will analyze the spatial organizations of people, places, and environment on the earth’s surface.

Code	Standard
K.SS.2.1	Demonstrate an understanding of maps and globes by: a. identifying the similarities and differences between a map and a globe; b. identifying basic map symbols; c. identifying land and bodies of water in the local community; and

Code	Standard
	d. identifying the geographic location of the United States and Idaho on a map and globe.
K.SS.2.2	Describe the relative location of people, places, and objects by using positional words, including but not limited to near/far, over/under, above/below, left/right, behind/in front, next to, and in between.

3. ECONOMICS

Students will explain basic economic concepts.

Code	Standard
K.SS.3.1	Distinguish between wants and needs.
K.SS.3.2	Explain the benefits of saving money and give examples of how people use money to make purchases.
K.SS.3.3	Recognize and describe different types of jobs, including work done in the home, school, and community.

4. CIVICS AND GOVERNMENT

Students will build an understanding of the foundational principles of the American political system, the organization and formation of the American system of government, and that all people in the United States have rights and assume responsibilities.

Code	Standard
K.SS.4.1	Practice citizenship in the classroom by: a) taking responsibility for one's actions; b) practicing honesty and showing kindness to oneself and others; c) recognizing the purpose of rules and practicing self-control; d) caring for one's personal property and respecting other students' property; and e) taking turns, sharing, and working well with others for the good of everyone else.

Code	Standard
K.SS.4.2	Identify symbols of the United States, including but not limited to the flag, Pledge of Allegiance, Bald Eagle, red, white, and blue, and the Statue of Liberty.
K.SS.4.3	Understand the meaning and purpose of the Pledge of Allegiance.
K.SS.4.4	Describe holidays and tell why they are commemorated in the United States, including, Indigenous Peoples’ Day, Thanksgiving, Martin Luther King, Jr. Day, Independence Day, and Presidents’ Day.

5. GLOBAL PERSPECTIVES

Students will build an understanding of multiple perspectives and global interdependence.

Code	Standard
K.SS.5.1	Name traditions that came to the United States from other parts of the world.

B. Grade 1

1. HISTORY

Students will build an understanding of the cultural and social development of the United States.

Code	Standard
1.SS.1.1	Compare differences in the ways families in the United States live today to how they lived in the past.
1.SS.1.2	Use timelines to show personal or family history.
1.SS.1.3	Compare personal histories, pictures, and music of other selected times and places in America’s past.

2. GEOGRAPHY

Students will analyze the spatial organizations of people, places, and environment on the earth’s surface and explain how human actions modify the physical environment and how physical systems affect human activity and living conditions.

Code	Standard
1.SS.2.1	Develop geographic skills by: a) using basic map symbols, including references to land, water, cities, and roads; b) using cardinal directions on maps; c) locating Idaho, the United States, continents, and oceans on maps and globes; and d) constructing simple maps and including a title, map legend or key, and compass rose.
1.SS.2.2	Identify ways people adjust to their environment as well as modify their environment.

3. ECONOMICS

Students will explain basic economic concepts and concepts of personal finance.

Code	Standard
1.SS.3.1	Identify ways people meet their needs by sharing, trading, and using money to buy goods and services.
1.SS.3.2	Distinguish between wants and needs and provide examples of each.
1.SS.3.3	Identify ways to save money for future needs and wants

4. CIVICS AND GOVERNMENT

Students will build an understanding of the foundational principles of the American political system, the organization and formation of the American system of government, and that all people in the United States have rights and assume responsibilities.

Code	Standard
1.SS.4.1	Define citizenship, and recognize traits of good citizens, such as respecting the rights of others, voting, following laws, etc.

Code	Standard
1.SS.4.2	Explain the importance of patriotic traditions and symbols, including the Pledge of Allegiance and the National Anthem, and respectful behavior during both.
1.SS.4.3	Provide all students the opportunity to be able to recite the Pledge of Allegiance.
1.SS.4.4	Describe holidays and events and tell why they are commemorated in the United States.
1.SS.4.5	Identify individuals who are helpful to people in their everyday lives.
1.SS.4.6	Name some responsibilities that students have at home and school.

5. GLOBAL PERSPECTIVES

Students will build an understanding of multiple perspectives and global interdependence.

Code	Standard
1.SS.5.1	Compare family life, structures, and daily routines of various cultures around the world.
1.SS.5.2	Recognize that each person belongs to many groups such as family, school, friends, and community.

C. Grade 2

1. HISTORY

Students will build an understanding of the cultural and social development of the United States.

Code	Standard
2.SS.1.1	Identify different groups that a person belongs to, such as family and community, and how those roles and/or groups have changed or stayed the same.
2.SS.1.2	Compare the lives and contributions of two of the five federally recognized American Indian tribes in Idaho: the Coeur d'Alene Tribe, Kootenai Tribe of Idaho, Shoshone Bannock Tribes, Nez Perce Tribe, and Shoshone-Paiute Tribes.

Code	Standard
2.SS.1.3	Analyze and interpret events placed chronologically on a timeline.

2. GEOGRAPHY

Students will analyze the spatial organizations of people, places, and environment on the earth's surface and explain how human actions modify the physical environment and how physical systems affect human activity and living conditions.

Code	Standard
2.SS.2.1	Develop geographic mapping skills using maps and globes by a) showing that map elements such as key, legend, and scale show how the map represents natural objects or places; b) applying knowledge of cardinal directions to use a compass rose; c) locating the countries of North America and the bordering oceans; d) Identifying and locating the seven continents and the five oceans; e) identifying major rivers, mountain ranges, lakes, and other physical features; f) identifying boundary lines to separate states; and g) locating man-made features.
2.SS.2.2	Compare how environmental conditions affect living styles and clothing in different parts of the country.
2.SS.2.3	Describe how humans depend on the environment to meet their basic needs.
2.SS.2.4	Define city/suburb/town and urban/rural.

3. ECONOMICS

Students will explain basic economic concepts, identify different influences on economic systems, and explain the concepts of personal finance.

Code	Standard
2.SS.3.1	Differentiate between the wants and needs of families and understand the purpose of a budget.

Code	Standard
2.SS.3.2	Explain what employment means and define income, wages, and salary.
2.SS.3.3	Examine different types of producers and consumers as well as goods and services.
2.SS.3.4	Explain how natural resources affect economic activities in the local community.

4. CIVICS AND GOVERNMENT

Students will build an understanding of the foundational principles of the American political system, the organization, and formation of the American system of government, and the fact that all people in the United States have rights and assume responsibilities.

Code	Standard
2.SS.4.1	Explore the concept of democracy by understanding the role of citizens and the United States government and connecting it to their role as citizens within their community where people can explore issues, create solutions and make decisions together.
2.SS.4.2	Recognize that Idaho has a constitution, which is the basis for our state's laws, and that there are consequences for breaking those laws.
2.SS.4.3	Identify the people or groups that make, apply, and enforce rules and laws at home, school, communities, and our state.
2.SS.4.4	Identify and examine the significance of well-known national symbols and landmarks, including The White House, the flag, the Statue of Liberty, and the bald eagle.
2.SS.4.5	Examine the meaning of keywords in the Pledge of Allegiance.
2.SS.4.6	Identify characteristics of good citizenship, such as courage, honesty, and responsibility, and identify the responsibilities of being a United States citizen.
2.SS.4.7	Identify historical and contemporary people who model characteristics of good citizenship.

5. GLOBAL PERSPECTIVES

Students will identify the importance of respecting multiple perspectives and global interdependence.

Code	Standard
2.SS.5.1	Compare your community with others in various parts of the world.
2.SS.5.2	Compare traditions in your community with those practiced in other parts of the world.

D. Grade 3

1. HISTORY

Students in Grade 3 build an understanding of the cultural and social development of the United States, trace the role of migration and immigration of people in the development of the United States, and examine the various roles American Indians assumed in the development of the United States and discuss the concept of sovereignty and still do today.

Code	Standard
3.SS.1.1	Investigate your community's history and determine the chronological importance of local events.
3.SS.1.2	Analyze distinctive foods, clothing styles, and traditions of various cultural groups within the community, including but not limited to the five federally recognized tribes of Idaho.
3.SS.1.3	Conduct interviews with family members, neighbors, friends, or school staff to discover why they call Idaho home.
3.SS.1.4	Describe how migration and immigration are continuous processes and how they are influenced by voluntary and involuntary movement of people.

2. GEOGRAPHY

Students will analyze the spatial organizations of people, places, and environments on the earth's surface and trace the migration and settlement of human populations on the earth's surface.

Code	Standard
3.SS.2.1	Develop an understanding of map reading by analyzing maps and globes using standard terms, including country, North Pole, Equator, Prime Meridian, hemisphere, region, latitude, South Pole, longitude, and time zones.
3.SS.2.2	Use cardinal directions, map scales, legends, and grids to locate the United States, Washington D.C., Idaho, the state capital, Boise, and their own community on a map.
3.SS.2.3	Analyze past and present settlement patterns of the community in which you live and how geographic features influenced those patterns.
3.SS.2.4	Compare and contrast city/suburb/town and urban/rural farm/factory, as well as agriculture/industry.

3. ECONOMICS

Students will explain basic economic concepts, identify different influences on financial systems, analyze the various types of monetary institutions, and explain the concepts of personal finance.

Code	Standard
3.SS.3.1	Explain the concepts of supply and demand and the role of the consumer and producer.
3.SS.3.2	Explain the difference between public and private property.
3.SS.3.3	Explain how land, natural resources, labor, trade, and/or technology affect economic activities in the local community.
3.SS.3.4	Identify different examples of making an economic choice, including consumption of goods and services, using a bank, investing, and budgeting.

4. CIVICS AND GOVERNMENT

Students will build an understanding of the foundational principles of the American political system, the organization, and formation of the American system of government, and the fact that all people in the United States have rights and assume responsibilities.

Code	Standard
3.SS.4.1	Explain the benefits of following the laws and the consequences of breaking the rules and laws of our local and national communities.
3.SS.4.2	Identify the people or groups that make, apply, and enforce laws in our local and national communities.
3.SS.4.3	Identify and explain the basic functions of local and state governments.
3.SS.4.4	Explain how local government officials are chosen, e.g., election, or appointment.
3.SS.4.5	Describe services commonly and primarily provided by governments for the community.
3.SS.4.6	Identify local government officials.
3.SS.4.7	Identify ways children and adults can participate in their community and/or local governments.
3.SS.4.8	Explain that people in the United States share a national identity through patriotic symbols and holidays.

5. GLOBAL PERSPECTIVES

Students will build an understanding of multiple perspectives and global interdependence.

Code	Standard
3.SS.5.1	Explore connections that the local community has with other communities throughout the world.
3.SS.5.2	Examine the contributions of various cultures from other parts of the world to the development of the community and how they make that community unique.

E. Grade 4

1. HISTORY

Students will build an understanding of the cultural and social development of the United States, trace the role of migration and immigration of people in the development of the United States, and examine the various roles American Indians assumed in the development of the United States, and discuss the concept of sovereignty and how federally recognized tribes exercised their sovereign status throughout the history of the United States, and still do today.

Code	Standard
4.SS.1.1	<u>Identify the contributions of different cultural groups to Idaho (e.g., Basque shepherders, French Canadian fur trappers, LDS, pioneers, etc.) and describe ways that they have influenced a shared Idaho culture.</u> Identify characteristics of different cultural groups in Idaho and describe ways that they have influenced and impacted each other.
4.SS.1.2	Describe the federal policies behind the treaties and executive orders that resulted in the creation of the reservations in Idaho.
4.SS.1.3	<u>4.SS.1.3 Identify the impact on western expansion and the creation of the State of Idaho through contributions of major groups, including but not limited to explorers, missionaries, immigrants, and American Indians.</u> <u>Lewis and Clark</u> <u>Sacagawea</u> <u>David Thompson</u> <u>Fort Lemhi</u> <u>Pioneers</u> <u>Miners</u> <u>Vaqueros</u> <u>Rebecca Brown Mitchell</u> <u>Emma Yearnian</u> <u>Railroad workers</u> <u>William Wallace</u> Identify the major groups, including but not limited to explorers, missionaries, and significant individuals, immigrant experiences, and their impact on western expansion and the creation of the State of Idaho.
4.SS.1.4	Describe the historic role of fur trading and the discovery of gold and silver in Idaho.

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Code	Standard
4.SS.1.5	<u>Describe the federal policies and the motivations that led to westward expansion and subsequent consequences that impacted American Indian tribes in Idaho.</u> Describe the ideology and federal policies that led to westward expansion and subsequent consequences that impacted American Indian tribes in Idaho.
4.SS.1.6	Compare and contrast the historical and current key characteristics of the five federally recognized American Indian tribes in Idaho: Coeur d’Alene Tribe, Kootenai Tribe of Idaho, Shoshone –Bannock Tribes, Nez Perce Tribe, and Shoshone-Paiute Tribes and ceded and current reservation lands.
4.SS.1.7	Describe how tribes in Idaho interacted with and impacted existing and newly arriving people.
4.SS.1.8	Examine the meaning of tribal sovereignty and its relationship at the tribal, local, state, and federal levels of government.
4.SS.1.9	Describe how American Indian tribes maintain resources, including cultural materials, history, language, and culture.

2. GEOGRAPHY

Students will analyze the spatial organizations of people, places, and environments on the earth’s surface and trace the migration and settlement of human populations on the earth’s surface.

Code	Standard
4.SS.2.1	Use a number/letter coordinate grid to collect, analyze, interpret, and communicate data for finding specific locations on a map of Idaho.
4.SS.2.2	Describe the physical regions of Idaho, identify major natural resources, and explain their impact on settlement.
4.SS.2.3	<u>Describe conflicts resulting from land disputes, including but not limited to the Battle of Four Lakes, Bear River Massacre, Nez Perce Flight of 1877, Bannock War of 1878, and Kootenai War of 1974.</u> Describe the encroachment on tribal lands in Idaho and the resulting conflicts, such as the Battle of Four Lakes, Bear River Massacre, Nez Perce Flight of 1877, Bannock War of 1878, and Kootenai War of 1974.

3. ECONOMICS

Students will explain basic economic concepts, identify different influences on economic systems, analyze the different types of economic institutions, and explain the concepts of personal finance.

Code	Standard
4.SS.3.1	Describe and analyze how American Indians and early settlers met their basic needs of food, shelter, and water.
4.SS.3.2	Explain the concepts of supply and demand and scarcity.
4.SS.3.3	Explain the concepts of specialization and division of labor.
4.SS.3.4	Identify goods and services in early Idaho settlements.
4.SS.3.5	Describe examples of historic and current technological innovations in relation to economic growth in Idaho.
4.SS.3.6	Describe how the geographic features of Idaho have determined the economic base of Idaho's regions.
4.SS.3.7	Define entrepreneurship and identify reasons for starting a business.

4. CIVICS AND GOVERNMENT

Students will build an understanding of the foundational principles of the American political system, the organization, and formation of the American system of government, that all people in the United States have rights and assume responsibilities, and the evolution of democracy.

Code	Standard
4.SS.4.1	Identify the people and groups who make, apply, and enforce laws within state, local, and tribal governments how they function, and the relationships between them.
4.SS.4.2	Explain that rules and laws can be used to protect rights, provide benefits, and assign responsibilities.
4.SS.4.3	Explain the significance of Idaho symbols and the unique tribal seal of each federally recognized tribe in Idaho.

Code	Standard
4.SS.4.4	Identify the three branches of state government and explain the major responsibilities of each.
4.SS.4.5	<u>Identify elected officials, how they can be contacted, and how they are responsible to their constituents.</u> Name elected state officials and how they can be contacted.
4.SS.4.6	<u>Identify ways to be informed about and participate in state, Tribal, and local governments.</u> Identify ways people can monitor and influence the decisions and actions of their state and tribal governments.
4.SS.4.7	Describe the concepts of citizenship, popular sovereignty, respect for the individual, equality of opportunity, and personal liberty.

5. GLOBAL PERSPECTIVES

Students will build an understanding of multiple perspectives and global interdependence.

Code	Standard
4.SS.5.1	<u>Analyze the roles and relationships of groups of people who have impacted the state's history and contributed to Idaho's cultural heritage.</u> Analyze the roles and relationships of diverse groups of people from various parts of the world who have impacted the state's history and contributed to Idaho's cultural heritage.
4.SS.5.2	Describe the challenges experienced by people from various cultural, racial, and religious groups that settled in Idaho from various parts of the world.
4.SS.5.3	Identify Idaho's role in the global economy.
4.SS.5.4	<u>Compare the distinct histories, cultures, and ways of life of American Indian tribes in Idaho with those of indigenous peoples around the world.</u> Identify the diversity within American Indian tribes in Idaho and develop an awareness of the similar experiences of indigenous populations in the world.

F. Grade 5

1. HISTORY

Students will build an understanding of the cultural and social development of the United States, trace the role of migration and immigration of people in the development of the United States, and examine the various roles American Indians assumed in the development of the United States and discuss the concept of sovereignty and how federally recognized tribes exercised their sovereign status throughout the history of the United States and still do today.

Code	Standard
5.SS.1.1	Describe the interactions between European colonists and established societies in North America.
5.SS.1.2	Identify significant individuals who have been responsible for bringing about cultural and social changes in the United States including the founding fathers and presidents.
5.SS.1.3	Identify and explain influential political and cultural groups and their impact on American history.
5.SS.1.4	Identify different examples of how religion has been an important influence in American history.
5.SS.1.5	Describe how the establishment of the 13 original colonies contributed to the founding of the nation.
5.SS.1.6	Analyze the causes and effects of various compromises and conflicts in American history, including the various events leading to the American Revolution.
5.SS.1.7	Explain the religious, political, and economic motives of immigrants to the United States.
5.SS.1.8	Explain the history of indentured servitude and the slave trade in the United States.
5.SS.1.9	Analyze or distinguish the geographic, economic, and religious motivations that influenced the movement of people.
5.SS.1.10	Review that American Indians were the first inhabitants of the United States and analyze the impact of westward expansion on Indigenous peoples. <u>North American tribes.</u>

Code	Standard
5.SS.1.11	Describe the impact of scientific and technological advances on westward expansion including but not limited to the cotton gin, the reaper, the steam engine, and steam locomotive.

2. GEOGRAPHY

Students will analyze the spatial organizations of people, places, and environments on the earth's surface and trace the migration and settlement of human populations on the earth's surface.

Code	Standard
5.SS.2.1	Develop and use different kinds of maps, globes, graphs, charts, databases, and models to display and obtain information.
5.SS.2.2	Identify the regions of the United States and their resources.
5.SS.2.3	Name and locate the 50 States and their Capitals, and United States Territories.
5.SS.2.4	Read, analyze, and interpret maps, including the use of latitude and longitude aerial photography, satellite images, and other geospatial products.

3. ECONOMICS

Students will explain basic economic concepts, identify different influences on economic systems, analyze the different types of economic institutions, and explain the concepts of personal finance.

Code	Standard
5.SS.3.1	Describe examples of improved transportation and communication networks and how they encourage economic growth.
5.SS.3.2	Explain the concepts of tariffs, taxation, and embargo.
5.SS.3.3	Describe the basic characteristics of a market economy.
5.SS.3.4	Explain the economic policies that contributed to rebellion within the North American colonies.
5.SS.3.5	Identify economic incentives and risks of entrepreneurship.
5.SS.3.6	Explain the impact of taxation on personal finance.

4. CIVICS AND GOVERNMENT

Students will build an understanding of the foundational principles of the American political system, the organization and formation of the American system of government, and that all people in the United States have rights and assume responsibilities, and the evolution of democracy.

Code	Standard
5.SS.4.1	Identify the people and groups who make, apply, and enforce laws within federal and tribal governments.
5.SS.4.2	Identify and explain the important concepts in the Declaration of Independence.
5.SS.4.3	Explain the significance of the Articles of Confederation as the transitional form of government.
5.SS.4.4	Identify the basic principles of the United States Constitution and Bill of Rights, including popular sovereignty, limited government, separation of powers, checks and balances, judicial review, and federalism.
5.SS.4.5	Distinguish and compare responsibilities among state, national, and tribal governments in a federal system.
5.SS.4.6	Identify the three branches of government and the functions and powers of each.
5.SS.4.7	Explain the difference between reservations, State public lands, and Federal public lands.
5.SS.4.8	Identify the President and Vice President of the United States and the U.S. Senators and Representatives to Congress from Idaho.
5.SS.4.9	Identify some of the personal responsibilities and basic rights of individual freedoms that belong to American citizens.
5.SS.4.10	Describe ways in which citizens participate in public life.
5.SS.4.11	Explain how the United States is a republic.
5.SS.4.12	State the difference between direct democracy and the constitutional republic of today's United States.

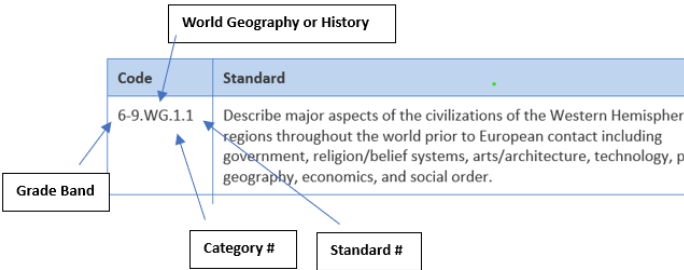
Code	Standard
5.SS.4.13	Explain the concepts of popular sovereignty, majority rule with minority rights, respect for the individual, equality of opportunity, rule of law, and personal liberty.

5. GLOBAL PERSPECTIVES

Students will build an understanding of multiple perspectives and global interdependence.

Code	Standard
5.SS.5.1	Explain how the world is divided into many different countries and each has its own government and how they interact with each other.
5.SS.5.2	Explain how countries try to resolve problems.
5.SS.5.3	Identify the role of the United States in a global economy.

IV. WORLD GEOGRAPHY AND CIVILIZATIONS GRADES 6-9



A. World Geography

1. HISTORY

Students studying World Geography will build an understanding of the cultural and social development of human civilizations.

Code	Standard
6-9.WG.1.1	Describe major aspects of the civilizations in regions throughout the world prior to European contact including government, religion/belief systems, arts/architecture, technology, physical geography, economics, and social order.
6-9.WG.1.2	Examine the impact of Europeans and indigenous native cultures on one another in regions throughout the world.
6-9.WG.1.3	Describe and compare various motivations of European colonization in regions throughout the world.
6-9.WG.1.4	Investigate the historical origins, central beliefs, and spread of major religions and belief systems, including Judaism, Christianity, Islam, Sikhism, Hinduism, Buddhism, and Confucianism and Indigenous knowledge and belief systems.

2. GEOGRAPHY

Students studying World Geography will analyze the spatial organization of people, places, and environment on the earth's surface, explain how human actions modify the physical environment and how physical systems affect human activity and living conditions, trace the migration and settlement of human populations on the earth's surface, analyze the human and physical characteristics of different places and regions, and explain how geography enables people to comprehend the relationships between people, places, and environments over time.

Code	Standard
6-9.WG.2.1	Apply latitude and longitude to locate places on Earth.
6-9.WG.2.2	Describe the uses of technology, such as Global Positioning Systems (GPS) Geographic Information Systems (GIS), and satellite and aerial imaging.
6-9.WG.2.3	Describe the relative location of people, places, and objects by using positional words, including but not limited to cardinal directions and distance.
6-9.WG.2.4	Locate, map, and describe the climate of regions throughout the world and analyze their impact on human activity and living conditions.
6-9.WG.2.5	Identify major biomes and explain ways in which the natural environment and climate of places in regions throughout the world are related to affect settlement patterns and everyday life.
6-9.WG.2.6	Analyze and give examples of the consequences of human impact on the physical environment, including the role of technology.
6-9.WG.2.7	Identify the names and locations of countries and major cities in regions around the world.
6-9.WG.2.8	Describe major physical characteristics of regions throughout the world.
6-9.WG.2.9	Identify patterns of population distribution and growth in regions throughout the world and explain changes in these patterns that have occurred over time.
6-9.WG.2.10	Compare and contrast cultural patterns in regions throughout the world, such as language, religion, and ethnicity.
6-9.WG.2.11	Analyze the locations of the major manufacturing and agricultural areas in regions throughout the world.
6-9.WG.2.12	Analyze the availability of natural resources in regions throughout the world.

Code	Standard
6-9.WG.2.13	Give examples of how both natural and technological hazards have impacted the physical environment and human populations in regions throughout the world.
6-9.WG.2.14	Give examples of how landforms, water, climate, and natural vegetation have influenced historical trends and developments in regions throughout the world.
6-9.WG.2.15	Describe various views that affect environmental issues in regions throughout the world.
6-9.WG.2.16	Explain how human-caused changes in the physical environment in one place can cause changes in another place such as irrigation, air pollution, water pollution, and deforestation.

3. ECONOMICS

Students studying World Geography will explain basic economic concepts and identify different influences on economic systems.

Code	Standard
6-9.WG.3.1	Describe abundance, scarcity, and distribution of resources; explain their impact on decision making such as trade, settlement, stewardship of the natural environment, and development of infrastructure.
6-9.WG.3.2	Describe how different economic systems guide decisions about what to produce, how to produce, and for whom to produce.
6-9.WG.3.3	Compare the standard of living of various regions today using quality of life indicators and discuss their impact on everyday life locally, nationally, and globally.
6-9.WG.3.4	Analyze current economic issues using a variety of sources representing multiple perspectives.
6-9.WG.3.5	Identify economic connections between local, national, and global economies in regions throughout the world.
6-9.WG.3.6	Explain how the demand for important natural resources evolved in regions throughout the world.

Code	Standard
6-9.WG.3.7	Investigate how physical geography, natural resources, specialization, and trade have influenced the way people meet their material needs.

4. CIVICS AND GOVERNMENT

Students studying World Geography will build an understanding of comparative government.

Code	Standard
6-9.WG.4.1	Identify the major forms of government in regions throughout the world and compare them with the government of the United States.

5. GLOBAL PERSPECTIVES

Students studying World Geography will build an understanding of multiple perspectives and global interdependence.

Code	Standard
6-9.WG.5.1	Discuss how social institutions, including the family, religion, and education, influence behavior in different societies in regions throughout the world.
6-9.WG.5.2	Give examples of how language, literature, and the arts shape the development and transmission of culture in regions throughout the world.
6-9.WG.5.3	<u>Analyze how miscommunication or misunderstandings of different cultures can lead to conflict.</u> Define ethnocentrism and give examples of how it can lead to miscommunication and cultural misunderstandings.
6-9.WG.5.4	Discuss present conflicts between cultural groups and nation-states in regions throughout the world.
6-9.WG.5.5	Describe the costs and benefits of global connections including trading, seeking solutions to mutual problems, learning from technological advances, acquiring new perspectives, and benefiting from developments in culture.
6-9.WG.5.6	Explain the causes and consequences of current global issues, including the expansion of global markets, the urbanization of the developing world, the consumption of natural resources, and the extinction of species.

6. GEOGRAPHY SKILLS

Students in World Geography will apply the following geography skills.

Code	Standard
6-9.WG.6.1	Explain how and why events may be interpreted differently according to the points of view of participants and observers.
6-9.WG.6.2	Explain and use the components of maps, compare different map projections, and explain the appropriate uses for each.
6-9.WG.6.3	Analyze visual and statistical data presented in charts, tables, graphs, maps, and other graphic organizers to assist in interpreting a historical event.

B. World History and Civilizations

1. HISTORY

Students in World History and Civilizations will explain the rise of human civilization, trace how natural resources and technological advances have shaped civilizations, build an understanding of human cultural and social development, and identify the role of religion/belief systems in civilizations over time.

Code	Standard
6-9.WH.1.1	Analyze types of evidence used by anthropologists, archaeologists, and other scholars to reconstruct early human and cultural development.
6-9.WH.1.2	Describe the characteristics of early hunter-gatherer communities.
6-9.WH.1.3	Describe how hunter-gatherer communities developed into agricultural sedentary settlements.
6-9.WH.1.4	Analyze the characteristics of early civilizations throughout the world including government, religion/belief systems, arts/architecture, technology, physical geography, economics, and social order.
6-9.WH.1.5	Explain how humans adapted the environment to maintain population growth and develop the first civilizations.
6-9.WH.1.6	Identify the technological advances developed by Ancient, Middle Age, Early-Modern, and Modern societies and civilizations throughout the world.

Code	Standard
6-9.WH.1.7	Identify examples of how writing, art, architecture, mathematics, and science have evolved over time, such as in Ancient, Middle Age, Early-Modern, or Modern societies and civilizations throughout the world.
6-9.WH.1.8	Analyze different social classes and their impact on societies and civilizations throughout the world, including Ancient, Middle Age, Early-Modern, and Modern.
6-9.WH.1.9	Explain the relationship between religion and belief systems and people's understanding of the natural world.
6-9.WH.1.10	Explain how religion and belief systems shaped the development of civilizations.
6-9.WH.1.11	Discuss how religion, belief systems, economics, and politics influenced social behavior and were used to maintain social order.
6-9.WH.1.12	Examine why the diversity of religion and belief systems across cultural, social, political, and economic institutions have been sources of conflict.

2. GEOGRAPHY

Students in World History and Civilization will analyze the spatial organizations of people, places, and environment on the earth's surface, trace the migration and settlement of human populations on the earth's surface, analyze the human and physical characteristics of different places and regions, and explain how geography enables people to comprehend the relationships between people, places, and environments over time.

Code	Standard
6-9.WH.2.1	Develop and interpret different kinds of maps, globes, graphs, charts, databases, and models.
6-9.WH.2.2	Identify the main reasons for major migrations of people.
6-9.WH.2.3	Explain how climate affects human migration and settlement.
6-9.WH.2.4	Describe how physical features, such as mountain ranges, fertile plains, and rivers led to the development of cultural regions.
6-9.WH.2.5	Explain how transportation routes stimulate the growth of cities and the exchange of goods, knowledge, and technology.

Code	Standard
6-9.WH.2.6	Explain the impact of waterways on civilizations.
6-9.WH.2.7	Explain how the resources of an area can be the source of conflict between competing groups.
6-9.WH.2.8	Illustrate how the population growth rate impacts a nation's resources.
6-9.WH.2.9	Explain how the rapid growth of cities can lead to economic, social, political, and technological problems and innovations.
6-9.WH.2.10	Describe why the conservation of resources is necessary to maintain a healthy environment.

3. Economics

Students in World History and Civilization will explain basic economic concepts and identify different influences on economic systems.

Code	Standard
6-9.WH.3.1	Explain how people historically relied on their natural resources to meet their needs.
6-9.WH.3.2	Describe examples that show how economic opportunity and a higher standard of living are important factors in human migration.
6-9.WH.3.3	Analyze the role of money and alternative means of exchange.
6-9.WH.3.4	Analyze the impact of economic growth on society.
6-9.WH.3.5	Identify influential economic thinkers and the impact of their philosophies.

4. CIVICS AND GOVERNMENT

Students in World History and Civilization will build an understanding of the evolution of governmental structures.

Code	Standard
6-9.WH.4.1	Describe the role of government in historical human migration, such as push and pull factors.

Code	Standard
6-9.WH.4.2	Analyze the various political systems that shaped civilizations throughout the world, including the City-State, Monarchy, Republic, Nation-State, or Democracy.
6-9.WH.4.3	Analyze and evaluate the global expansion of liberty and democracy through revolution and reform movements.

5. GLOBAL PERSPECTIVES

Students in World History and Civilization will build an understanding of multiple perspectives and global interdependence.

Code	Standard
6-9.WH.5.1	Explain the political, economic, religious, or cultural causes of conflicts in various civilizations and their consequences.
6-9.WH.5.2	Identify and compare major modern world conflicts and explain their global consequences and impacts including European colonialism, World War I, World War II, the Cold War, and decolonialism movements.
6-9.WH.5.3	Explain why people unite for political, economic, and humanitarian reasons.
6-9.WH.5.4	Analyze the causes, events, and consequences of the Holocaust while exploring the impacts of discrimination and prejudice.

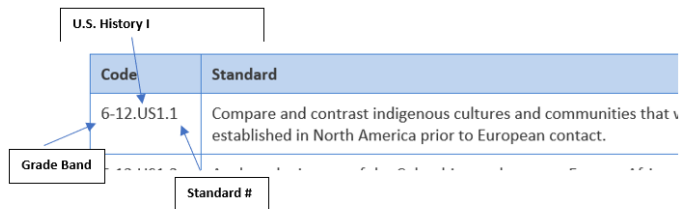
6. HISTORICAL THINKING SKILLS

Students in World History will apply the following historical thinking skills.

Code	Standard
6-9.WH.6.1	Synthesize evidence from information sources including, but not limited to artifacts, primary and secondary sources, charts, graphs, and/ or images to interpret historical events.
6-9.WH.6.2	Determine and explain the cause and effect of historical events or developments.
6-9.WH.6.3	Explain how and why events may be interpreted differently according to the points of view of participants and observers.

Code	Standard
6-9.WH.6.4	Support claim(s) with logical reasoning and relevant, accurate data and evidence that demonstrate an understanding of the topic or text, using credible sources.
6-9.WH.6.5	Analyze the context of historical events to determine the motivations of people in those events.

V. UNITED STATES HISTORY I GRADES 6-12



A. ~~Indigenous~~ American Indian Cultures and Colonization 1491-1754

Code	Standard
6-12.US1.1	<u>Compare and contrast the culture of various American Indian communities that were established in North America prior to European settlement, including but not limited to:</u> • <u>Arctic (Inuit, Aleut)</u> • <u>Subarctic (Cree, Ojibwa)</u> • <u>Northeast (Iroquois, Ottawa)</u> • <u>Southeast (Creek, Seminole, Chickasaw, Choctaw, Cherokee)</u> • <u>Great Plains (Dakota, Blackfoot, Comanche)</u> • <u>Great Basin (Shoshone, Bannock, Ute)</u> • <u>Plateau (Nez Perce, Salish)</u> • <u>Southwest (Pueblo, Apache, Navajo)</u> • <u>Pacific Coast (Mohave, Chinook, Tillamook)</u> • <u>Other Idaho tribes (Coeur d'Alene, Kootenai, Paiute)</u> Compare and contrast indigenous cultures and communities that were established in North America prior to European contact.
6-12.US1.2	<u>Analyze the impact of the Columbian exchange on Europe, Africa, and the Americas, including, but not limited to agriculture, technology, politics, and religion.</u> Analyze the impact of the Columbian exchange on Europe, Africa, and the Americas.
6-12.US1.3	Analyze the development of the New England, Mid-Atlantic, and Southern Colonies, including the reasons for the establishment, the economic, political,

Code	Standard
	and social development, and the relationships with Indigenous peoples. <u>American Indians.</u>
6-12.US1.4	<u>Explain the differences with economic systems between New England, and the Mid-Atlantic and Southern colonies, including indentured servitude and slavery as labor sources, and the role of the transatlantic slave trade.</u> Explain the difference between indentured servitude and slavery in colonial North America and the role of the transatlantic slave trade.
6-12.US1.5	<u>Compare the settlement motivations and impacts of the Spanish, Dutch, French, and English in North America.</u> Explain the social and economic motivations and events surrounding the enslavement of peoples, both Indigenous and African, in the northern and the southern colonies.
6-12.US1.6	Compare the settlement motivations and impacts of the Spanish, Dutch, French, and English in North America.
6-12.US1.7	<u>Trace and analyze the colonial social, religious, political, and economic developments that provided context for the American Revolution, including, but not limited to a discussion of:</u> • <u>Mercantilism</u> • <u>Royal, Joint Stock, and Proprietary Charters</u> • <u>Legislative bodies</u> • <u>Town meetings</u> • <u>Magna Carta and Common Law</u> • <u>Juries</u> • <u>First Great Awakening</u> Analyze the Tribal nations' resistance and adaptations to European colonization and the European attitudes toward the land and the Indigenous peoples of the 17th and 18th centuries.

B. American Revolution 1754-1791

Code	Standard
6-12.US1.8	<u>Analyze how the French and Indian War influenced British imperial policies, North American-Indian alliances, and the colonial response to these policies, including, but not limited to:</u> • <u>Mayflower Compact</u>

Code	Standard
	• <u>Mercantilism</u> • <u>Royal Proclamation of 1763</u> • <u>Sugar Act (1764)</u> • <u>Stamp Act (1765)</u> • <u>Stamp Act Congress (1765)</u> • <u>Declaratory Act (1766)</u> • <u>Townshend Duties (1767)</u> • <u>Tea Act (1773)</u> • <u>Intolerable Acts (1774)</u> • <u>Boston Tea Party (1773)</u> Trace and analyze the colonial social, political, and economic developments, including mercantilism, that provided context for the American Revolution.
6-12.US1.9	<u>Identify the impact of multiple intellectual traditions on the American Revolution and the Declaration of Independence, including early modern and Enlightenment thinkers (e.g., Locke and Montesquieu), Greek, Roman and English political history.</u> Analyze how the French and Indian War impacted American-Indian alliances, British colonial policies, and American colonists.
6-12.US1.10	<u>Analyze the impact of major military events on the American Revolution, including but not limited to Lexington and Concord, Bunker Hill, Saratoga, Trenton, and Yorktown.</u> Identify the impact of the Enlightenment on the American Revolution particularly the Declaration of Independence.
6-12.US1.11	<u>Explain the contributions of leaders throughout the American Revolution, including, but not limited to George Washington, Thomas Paine, Patrick Henry, John Adams, Ben Franklin, and Thomas Jefferson.</u> Analyze the impact of major military events and leaders throughout the American Revolution.
6-12.US1.12	<u>Explain the contributions of key historical figures during the Revolutionary Period, including, but not limited to:</u> • <u>Molly Pitcher</u> • <u>Betsy Ross</u> • <u>Mercy Otis Warren</u> • <u>Phillis Wheatly</u> • <u>Chief Cornstalk</u>

Code	Standard
	• <u>Joseph Brant</u> • <u>Marquis de Lafayette</u> • <u>Baron Friedrich Von Steuben</u> <u>Compare the roles of Indigenous people, women, African Americans, and immigrants in the Revolution Period.</u>

C. Founding a New Government 1776-1791

Code	Standard
6-12.US1.13	<u>Analyze the successes and failures of the Articles of Confederation and the events that led to the Constitutional Convention of 1787.</u> Analyze the successes and failures of the Articles of Confederation.
6-12.US1.14	<u>Explain the key concerns and compromises that emerged at the Constitutional Convention of 1787, including arguments over the Bill of Rights and its eventual adoption, including, but not limited to:</u> • <u>New Jersey Plan, Virginia Plan, and the Great Compromise</u> • <u>Compromises regarding representation</u> • <u>Compromises regarding taxation</u> • <u>Compromises regarding slavery</u> • <u>State vs. federal power</u> Explain the key concerns and compromises that emerged at the Constitutional Convention including arguments over the Bill of Rights and its eventual adoption.
6-12.US1.15	<u>Analyze the arguments and outcomes of the ratification debate between leading Federalists and Anti-Federalists, including, but not limited to:</u> • <u>Federalists (John Jay, Alexander Hamilton, and James Madison)</u> • <u>Anti-Federalists (Patrick Henry, Sam Adams, Elbridge Gerry, George Mason, Brutus)</u> Analyze the arguments and outcomes of the ratification debate between Federalists and Anti-Federalists.
6-12.US1.16	Analyze the original Constitution by comparing the powers of government branches, assessing its response to Revolutionary causes and alignment with Declaration of Independence ideals, and addressing failures of the Articles of Confederation.

D. Early Republic 1787-1825

Code	Standard
6-12.US1.17	Identify the traits, beliefs, and characteristics that united and divided the United States as a nation and a society during this time period.
6-12.US1.18	<u>Compare and contrast the political differences and similarities among early Republic Presidents, including the significance of the Election of 1800 and the Era of Good Feelings.</u> Compare and contrast the political differences and similarities among early Republic Presidents.
6-12.US1.19	Explain the social and economic motivations and developments surrounding the enslavement of peoples in the northern and southern states and territories.
6-12.US1.20	Explain the changes in manufacturing, agriculture, transportation, and communication during the First Industrial Revolution.
6-12.US1.21	<u>Explain the causes and effects of the War of 1812, including but not limited to:</u> <u>British restrictions on trade, and impressment</u> <u>Embargo Act and Non-Intercourse Act</u> <u>Major events of the war, including the role of the USS Constitution, invasion of Canada, the burning of the Capitol and the White House, and the Battle of New Orleans, Battle of Tippecanoe and Tecumseh's Confederation</u> <u>The attack on Fort McHenry, which led to the writing of the Star-Spangled Banner</u> Explain the causes and effects of the War of 1812.
6-12.US1.22	<u>Identify and analyze the impact of the foreign policy developments of the period 1787-1825, including but not limited to the Neutrality Acts, the Louisiana Purchase, the Embargo Act, the Adams-Onís Treaty, and the Monroe Doctrine.</u> Analyze how foreign policy at the end of the 18th century and the beginning of the 19th century impacted relations with sovereign powers outside the United States.
6-12.US1.X23	<u>Describe how American westward expansion during the Early Republic affected tribal relations; understand how intertribal relations lead to American alliances with the Muscogee, Choctaw, Cherokee, and Chickasaw and how other tribal confederacies formed to resist American expansion with the support of foreign European powers, including, but not limited to a discussion of:</u>

Code	Standard
	• <u>Lewis and Clark Expedition</u> • <u>The Northwest Indian War, including St. Clair's Defeat and the Battle of Fallen Timbers</u> • <u>Tecumseh's Rebellion</u> • <u>Creek War</u> • <u>First Seminole War</u> • <u>Cherokee delegation to Washington (1824)</u>

E. Geographic Expansion and Political and Social Changes 1820-1860

Code	Standard
6- 12.US1.2 3 ⁴	<u>Analyze how economic, political, and social events led to the Civil War, including, but not limited to:</u> • <u>Slavery</u> • <u>Virginia and Kentucky Resolutions</u> • <u>Nullification Crisis</u> • <u>Missouri Compromise</u> • <u>Compromise of 1850</u> • <u>Publication of Uncle Tom's Cabin</u> • <u>Fugitive Slave Act</u> • <u>Personal Liberty Laws in the North</u> • <u>Kansas-Nebraska Act</u> • <u>Dred Scott Decision</u> • <u>Rise of the Republican Party and the Election of 1856</u> • <u>John Brown's Raid</u> • <u>Election of 1860</u> • <u>Crittenden Compromise</u> Analyze how economic, political, and social events, including the election of Abraham Lincoln, led to the Civil War. • Slavery • Nullification Crisis • Missouri Compromise • Compromise of 1850 • Uncle Tom's Cabin • Fugitive Slave Act • Personal Liberty Laws in the North • Kansas-Nebraska Act • Dred Scott Decision • John Brown's Raid

Code	Standard
	Election of 1860 Secession documents
6-12.US1.2 45	<u>Compare the political differences and similarities among Democratic and Whig presidents from 1825 to 1860, including but not limited to:</u> <u>Expansion of voting rights</u> <u>Rise of the Democratic Party</u> <u>The Spoils System</u> <u>Jackson's veto of the National Bank</u> <u>Tariff of Abominations and Nullification Crisis</u> <u>Log cabin campaign of William Henry Harrison</u> Compare the political differences and similarities among Jacksonian and Whig presidents of 1825-1860 such as analysis of the effects of the early 19th century expansion of voting rights on presidential campaigns and policies.
6-12.US1.2 56	Analyze the religious, political, and economic motives of immigrants who came to North America between 1820-1860.
6-12.US1.2 67	Compare and contrast the various manifestations of slavery in this time period, for example, ownership patterns, labor divisions, and geographic differences.
6-12.US1.2 78	<u>Compare and contrast various defenses of slavery offered by apologists and various anti-slavery movements including, but not limited to a discussion of:</u> <u>American Colonization Society (Henry Clay)</u> <u>Gradualist abolitionist movements</u> <u>Radical abolitionist movements</u> <u>Frederick Douglass</u> <u>John Brown</u> <u>Angelina Grimke</u> <u>William Lloyd Garrison</u> <u>Sojourner Truth</u> <u>Harriet Tubman</u> <u>Theodore Weld</u> Compare and contrast various defenses of slavery offered by apologists and various anti-slavery movements such as the American Colonization Society, the gradualist abolitionist movements, and the radical abolitionist movements.

Code	Standard
6-12.US1.2 8 <u>9</u>	Analyze the political and individual motivations and the social, political, economic, environmental impacts of individuals who moved West.
6-12.US1.X30	<u>Describe the impact of westward expansion, treaties, and federal policies on American-tribal relations including, but not limited to a discussion of:</u> • <u>Indian Removal Act of 1830</u> • <u>Cherokee Nation v. Georgia</u> • <u>Trail of Tears</u> • <u>Five Civilized Tribes</u> • <u>Establishment of Indian Territory and other reservations</u> • <u>Americanization/assimilation</u>
6-12.US1.2 9 <u>31</u>	Trace and explain how settlement patterns, federal policies, and treaties impacted American Indians through reservations, removal, and forced assimilation.
6-12-US1.3 0 <u>2</u>	Analyze the communication, industrial and agricultural changes and their impact on the social and economic lives of people in the North, South, and West.
6-12.US1.3 1 <u>3</u>	Explain how the development of various modes of transportation increased economic prosperity, promoted national unity, and contributed to disunity.
6-12.US1.3 2 <u>4</u>	Investigate the Second Great Awakening and various reform movements such as prison, education, and women's rights, as they formed the greater story of the United States in the 19 th century.
6-12.US1.3 3 <u>5</u>	<u>Describe the policies, motivations, and events, and subsequent policies that led to the westward expansion of the United States from 1820-1860, including, but not limited to:</u> • <u>Manifest Destiny</u> • <u>Texas Revolution and annexation</u> • <u>Mexican American War</u> • <u>Expeditions of John C. Fremont</u> • <u>California Gold Rush</u> • <u>Acquisition of Oregon Territory</u> • <u>Acquisition of Alaska Territory</u> • <u>Oregon, California, Sante Fe, and Mormon Trails</u> Describe the ideology, motivations, and events that led to the westward expansion of the United States from 1820-1860, • Texas Revolution

Code	Standard
	• War with Mexico • California Gold Rush • Acquisition of Oregon Territory • Acquisition of Alaska Territory
6-12.US1.34	Analyze the political conflicts that arose from the United States' territorial expansion.
6-12.US1.3 5 <u>6</u>	Analyze how foreign policy during the 1820s to 1860s impacted relations with sovereign powers outside the United States, for example, tariff policies and treaties with European powers and Mexico.
6-12.US1.3 6 <u>7</u>	Understand how the interactions between the five federally recognized Idaho Tribal governments of Coeur d'Alene Tribe, Kootenai Tribe of Idaho, Shoshone Bannock Tribes, Nez Perce Tribe, and Shoshone-Paiute Tribes and national, state, and local governments have impacted American Indian Tribal sovereignty over time.

F. Civil War and Reconstruction 1860s-1890

Code	Standard
6-12.US1.3 7 <u>8</u>	Trace the evolution of Lincoln's political thought on slavery, equality and rights for blacks, and the meaning of the war from the 1857 Dred Scott decision through the Lincoln Douglas debates, the First Inaugural Address, the Emancipation Proclamation, and the Gettysburg Address to his Second Inaugural Address.
6-12.US1.3 8 <u>9</u>	Analyze the impact of major military events in the Civil War, including, but not limited to Fort Sumter, First Bull Run, Antietam, Vicksburg, Fredericksburg, Gettysburg, Sherman's March, and Appomattox. Analyze the impact of major military events and leaders throughout the American Civil War.
6-12.US1.40	Explain the contributions of key leaders throughout the American Civil War, including, but not limited to: Ulysses S. Grant, Robert E. Lee, William Tecumseh Sherman, Stonewall Jackson, George McClellan, Abraham Lincoln, and Jefferson Davis.
6-12.US1.3 9 <u>41</u>	Explain the contributions of key historical figures and groups during the Civil War period, including, but not limited to: • <u>Clara Barton</u> • <u>Belle Boyd</u> • <u>Harriet Beecher Stowe</u> • <u>Ely S. Parker</u>

Code	Standard
	• <u>Stand Waite</u> • <u>Thomas Francis Meagher</u> • <u>Patrick Cleburne</u> • <u>54th Massachusetts Infantry Regiment</u> • <u>German and Irish soldiers in both armies</u> Compare and contrast the social and political roles of Indigenous people, women, African Americans, and immigrants in the Civil War Period.
6-12.US1.4 <u>02</u>	Analyze the outcomes of the American Civil War and the legal, political, and social implications of Reconstruction. • Reconstruction Amendments (13th, 14th, and 15th) • State, local, and federal elections • New political representation • Military presence • American Indian Warrior involvement • 1st and 2nd Indian Home Guard • Emancipation • Freedman's Bureau • Black Codes • Sharecropping • Ku Klux Klan (KKK)
6-12.US1.4 <u>13</u>	Analyze the context and consequences of The Compromise of 1877 and the end of Federal Reconstruction.
6-12.US1.4 <u>24</u>	<u>Identify how continued land and natural resource competition affected political, cultural, and economic development of the western United States, including, but not limited to:</u> • <u>Homestead Act of 1862</u> • <u>Transcontinental Railroad</u> • <u>Fur trade, cattle drives, end of "open range" era, destruction of the bison population</u> • <u>Land Rush of 1889</u> Identify how natural resource competition affected political, cultural, and economic development.
6-12.US1.4 <u>35</u>	Explain the social and political impacts of the Civil War on Americans during the war and in the immediate aftermath of the war.

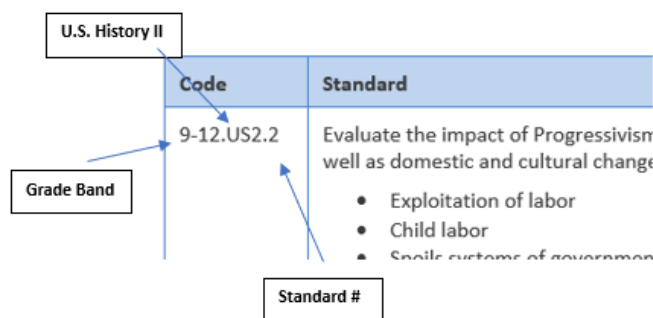
G. Growth of Industrial World 1877-1890 (Bridge with US_History II)

Code	Standard
6-12.US1.4 46	Analyze the religious, political, and economic motives of 19th-century immigrants who came to North America.
6-12.US1.4 57	Explain the changes in manufacturing, agriculture, transportation, and communication during the Second Industrial Revolution.
6-12.US1.X48	Describe relations between American Indians and the United States government following the Civil War, including conflict, treaties, containment, reservation, and assimilation.
6-12.US1.4 69	Evaluate how improved use of resources, new technology and inventions, and transportation networks influenced the growth of industrialization and urbanization.
6-12.US1.4 750	Describe the impact of business leaders, laissez-faire capitalism, and the use of corporations, monopolies, and trusts on the American economy.
6-12.US1.4 851	Evaluate the impact of industrialization and laissez-faire policies on labor.
6-12.US1.4 952	Explain the impact of labor unions and strikes on labor-management relations.
6-12.US1.5 03	Identify the impact of post-Civil War immigration on urbanization and labor relations.
6-12.US1.5 14	Describe the impact of geographic expansion during the late 19th century on the political, legal, and social rights of various groups and individuals, including but not limited to: • Women's Suffrage in the West • Buffalo Soldiers • Disenfranchisement in the South • Chinese Railroad Workers • Chinese Exclusion Act, 1882 • Anti-Irish Sentiments Describe the impact of geographic expansion on the political, legal, and social rights of women, African Americans, Asians, Indigenous peoples, and European immigrants.

H. Historical Thinking Skills

Code	Standard
6-12.HT1.1	Identify a series of historical events and developments as examples of change and/or continuity over time.
6-12.HT1.2	Explain how events and developments in the past stem from multiple causes and have multiple effects.
6-12.HT1.3	<u>Evaluate historical sources, considering authorship, strengths, limitations, and perspectives, while analyzing primary and secondary sources to understand their collective contribution to historical interpretation.</u> Analyze how people's perspectives influenced the historical sources they created and how people's perspectives may change over time
6-12.HT1.4	Construct and/or communicate a historical argument using primary and secondary sources.
6-12.HT1.5	Analyze historical issues by addressing questions that are open-ended and require research, analysis, and interpretation.
6-12.HT1.6	Analyze connections among events and developments in broader historical contexts.
6-12.HT1.7	Analyze, compare, and/or interpret artistic works to understand cultural and historical context and experience.
6-12.HT1.8	<u>Analyze how current interpretations of the past are limited by the extent to which available historical sources represent the perspectives of people at the time.</u> Evaluate sources based on the background of the author, historical context, and purpose of the document.
6-12.HT1.9	Evaluate the credibility of sources about a historical event found on the internet by determining (if possible) how and why the sources were created, how they were circulated, their intended audience, and whether the source contains valid citations.

VI. UNITED STATES HISTORY II GRADES 9-12



A. Federal Indian Policy Period, 1879 - Present

Code	Standard
9-12.US2.1	Analyze how federal policies established the relationship between the United States government and American Indian tribes, and the intended and unintended outcomes. - Allocation and Assimilated Period 1879-1934 - Tribal Reorganization Period, 1934-1958 - Termination and Relocation Period, 1953-1971 - Self-Determination Period, 1968-present

B. Progressivism and Imperialism, 1890 - 1920

Code	Standard
9-12.US2.2	Evaluate Progressivism’s impact on circumstances and policies. These may include: - Exploitation of labor - Child labor - Spoils systems of government hiring - Machine politics - Corruption - Immigration tension - Women’s suffrage - Prohibition

Code	Standard
	• Race relations • Eugenics
9-12.US2.3	Evaluate the impact of racial, economic, moral, political, and strategic motives for the United States becoming an imperialist power.
9-12.US2.4	Analyze the origins and the impacts of the Spanish-American War and American involvement in Latin America, Hawaii, the Philippines, China, and Japan.

C. World War I, 1915-1919

Code	Standard
9-12.US2.5	Explain the factors that led to World War One and describe the factors that were deterring the United States from involvement as well as the driving forces that eventually led to the United States' involvement.
9-12.US2.6	Determine the impact of government mobilization programs, restrictions on civil liberties, and propaganda on the American Homefront.
9-12.US2.7	Explain how new technologies influenced strategies, military tactics, and battle conditions on the Western Front during World War One.
9-12.US2.8	Analyze the goals and effects of the Treaty of Versailles.

D. The Roaring 20s, 1920-1929

Code	Standard
9-12.US2.9	Describe the impacts of economic, demographic, social, and cultural changes during the 1920s.
9-12.US2.10	Evaluate the social tensions of the era, including: • Race • Christian fundamentalism • Labor • Immigration • Changing social values • The Red Scare • Rise of the Ku Klux Klan • Prohibition

Code	Standard
	Rise of the mob and mafia

E. The Great Depression and the New Deal 1929-1939

Code	Standard
9-12.US2.11	Analyze the causes of the crash of 1929 and the Great Depression.
9-12.US2.12	Analyze the impact of the Great Depression and the Dust Bowl on farmers, businesses, workers, and racial and ethnic minorities.
9-12.US2.13	Evaluate the effectiveness of New Deal programs in addressing economic issues underlying the Great Depression.
9-12.US2.14	Evaluate the social tensions of the era, including: - Race - Labor - Domestic Migration - Changing social values - The Rise of Political Extremism

F. World War II 1939-1945

Code	Standard
9-12.US2.15	Explain the events and actions that led to World War Two, including the rise of fascism and totalitarianism, appeasement, and European and Japanese Imperialism.
9-12.US2.16	Analyze American participation in the international response to the Holocaust.
9-12.US2.17	Describe the strategies, events, and turning points that shaped the outcomes of World War Two.
9-12.US2.18	Compare and contrast the experience of Americans on the Pacific and European battle fronts during World War Two.
9-12.US2.19	Evaluate the factors that influenced the decision to employ atomic weapons against Japan.

Code	Standard
9-12.US2.20	Analyze the impact of events and policies on the Homefront during World War Two.
9-12.US2.21	Evaluate Supreme Court and executive decisions to limit civil liberties and to relocate Japanese Americans and others to internment camps.

G. Affluence, Cold War, and Social Revolutions 1945-1974

Code	Standard
9-12.US2.22	Evaluate the impact of postwar demobilization and the GI Bill on economic growth, culture, and lifestyle.
9-12.US2.23	Describe the ways the United States competed with the Soviet Union culturally, economically, and politically during the Cold War, and how this competition affected postwar military and economic growth.
9-12.US2.24	Analyze various foreign policy events through the lens of the Cold War, military engagements, and covert actions during this period. These may include: • Berlin Blockade • Rise of the Communist regime in China • Korean War • Central Intelligence Agency's support of coups in Iran and Guatemala • Cuban Missile Crisis • U2 incident • Berlin Wall • Vietnam War
9-12.US2.25	Compare various ways the United States and the Soviet Union built and strengthened economic, political, and military alliances with countries during this period. These may include: • Truman Doctrine • Marshall Plan • North Atlantic Treaty Organization (NATO) • Occupation and rebuilding of Japan and West Germany • Warsaw Pact • Occupation and rebuilding of Eastern Europe
9-12.US2.26	Examine the influence of the Cold War on United States politics and society. Including:

Code	Standard
	• The House of Un-American Activities Committee • McCarthyism • The Alger Hiss Case • The Rosenberg Case
9-12.US2.27	Describe the causes and effects on American society and culture of widespread growing affluence in the post-war period, as well as groups and geographic areas that were largely left out of it.
9-12.US2.28	Analyze the American Labor Movement during the post-war period.
9-12.US2.29	Analyze the motives, strategies, methods, organizations, and impacts of various Civil Rights Movements.
9-12.US2.30	Analyze the experiences of American soldiers in Vietnam and their experiences upon returning home including how these experiences compared to previous conflicts.
9-12.US2.31	Describe the relationships between the Vietnam War, the counterculture movement, and the anti-war movement.
9-12.US2.32	Examine the various ways the counterculture critiqued United States society.
9-12.US2.33	Analyze the major features of the Great Society policy. This may include: - War on Poverty - Medicare/Medicaid - Head Start and Education Reform - Urban Renewal - Support for the Arts and Humanities - Immigration Reform - Environmental Initiatives
9-12.US2.34	Examine the causes and consequences of the constitutional crisis that led to the resignation of President Richard Nixon.
9-12.US2.35	Analyze how Vietnam and Watergate reduced American faith in government and the military and led to significant political, constitutional, and legislative reforms.

H. Economic, Political, and Social Reorganization 1974-1992

Code	Standard
9-12.US2.36	Evaluate the causes and impacts on public confidence and trust in the government's ability to solve economic and social problems, such as: • Deindustrialization • Urban decline • Migration • Stagflation • Deficit spending • Energy crisis • Racial tensions
9-12.US2.37	Evaluate the factors that impacted relationships and policies with China, Russia, Latin America, and the Middle East.
9-12.US2.38	Analyze the rise of the New Right and the Reagan Revolution including the social, cultural, and economic policies it advocated for.
9-12.US2.39	Evaluate the factors that contributed to the end of the Cold War. These may include: • American diplomacy • Military build-up • Treaties • Iran-Contra affair • Strategic Defense Initiative (Star Wars) • Support of Afghanistan • Fall of the Berlin Wall • Collapse of the USSR
9-12.US2.40	Explain the causes and consequences of the American response to Iraq's invasion of Kuwait.

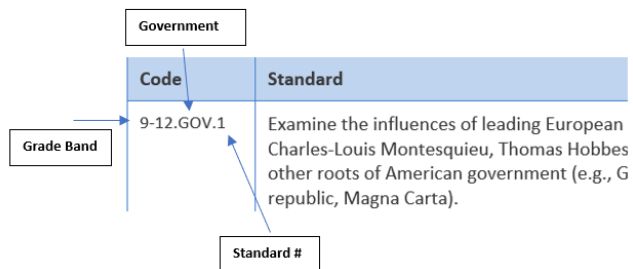
I. Globalization, Information Technology, Terrorism, Political and Social Polarization 1992-Present

Code	Standard
9-12.US2.41	Analyze the effects of globalization, free trade agreements, financial market deregulation, and the computer revolution on the economic boom of the 1990s.
9-12.US2.42	Describe some effects of key changes on United States society and labor. These may include: • Outsourcing • Robotic automation • Income disparities • Shift toward a service-based economy
9-12.US2.43	Evaluate the motivations behind domestic and non-state aligned terrorism, assess governmental responses including those after September 11, 2001, and analyze the causes, progression, and aftermath of the War on Terror in Afghanistan and Iraq.
9-12.US2.44	Evaluate how the rise of alternative media, social media, and technology, including smartphones, have affected United States culture, society, and politics.
9-12.US2.45	Examine United States policy on environmental issues.
9-12.US2.46	Evaluate the progress of civil rights and immigration issues in recent United States history.
9-12.US2.47	Evaluate the causes and consequences of the 2008 financial crisis and Great Recession.
9-12.US2.48	Evaluate the causes and impact of increasing political polarization on American politics.

J. Historical Thinking Skills

Code	Standard
6-12.HT2.1	Evaluate how historical events and developments were shaped by unique circumstances of time and place and broader historical contexts.
6-12.HT2.2	Analyze change and continuity in historical eras.
6-12.HT2.3	Use questions generated about individuals and groups to assess how the significance of their actions changes over time and is shaped by the historical context.
6-12.HT2.4	Analyze complex and interacting factors that influenced the perspectives of people during different historical eras and how those perspectives are reflected throughout history.
6-12.HT2.5	Analyze how current interpretations of the past are limited by the extent to which available historical sources represent the perspectives of people at the time.
6-12.HT2.6	Evaluate historical sources, considering authorship, strengths, limitations, potential biases, and appropriate application, while analyzing primary and secondary sources to understand their collective contribution to historical interpretation.
6-12.HT2.7	Analyze multiple and complex causes and effects of events in the past.
6-12.HT2.8	Construct historical arguments distinguishing the differences between long-term causes and triggering events using evidence from multiple relevant historical sources, perspectives, and interpretations.
6-12.HT2.9	Evaluate the central arguments in secondary works of history on related topics in multiple media in terms of their historical accuracy.

VII. AMERICAN GOVERNMENT GRADES 9-12



A. Foundations of the American Political System

Code	Standard
9-12.GOV.1	Examine the influences of leading European thinkers such as Locke and Montesquieu, as well as the influence of historical institutions such as Greek democracy, Roman republicanism, and the English legal tradition on the American Founding.
9-12.GOV.2	Examine the Declaration of Independence and American grievances against British rule.
9-12.GOV.3	Identify the strengths and weaknesses of the Articles of Confederation.
9-12.GOV.4	Analyze the Constitutional Convention of 1787, including the Great Compromise and the ensuing debate over ratification between the Federalists and Anti-Federalists.
9-12.GOV.5	Evaluate the arguments presented in the Federalist Papers, particularly Essay 10 and Essay 51, and evaluate the arguments in the Anti-Federalist Papers.
9-12.GOV.6	Describe the purposes and functions of government as outlined in the Preamble of the Constitution.
9-12.GOV.7	Describe limited government within the Constitution, including: • Checks and balances • Popular sovereignty • Rule of law • Federalism

Code	Standard
	• Separation of powers • Judicial review • Majority rule and protection of minority rights
9-12.GOV.8	Describe the structure of the Constitution and the process to amend it.
9-12.GOV.9	Analyze how the Bill of Rights limits the powers of the government and ensures individual rights.
9-12.GOV.10	Define the concepts of democracy and republic and examine the relationship between the two.
9-12.GOV.11	Understand the shared values and aspirations of Americans including liberty, egalitarianism, individualism, and laissez-faire government.
9-12.GOV.12	Evaluate the arguments within the Declaration of Independence and its definition of an ideal government.

B. Citizenship and Civic Participation

Code	Standard
9-12.GOV.13	Describe, at the national, state, and local level, what should be reasonably expected from any citizen or resident of the U.S. and explain why it is important for the well-being of the nation, including being informed on civic issues, serving in the military or alternative service, obeying the law, paying taxes, volunteering, and performing public service, respecting the rights of others, serving as a juror, and voting.
9-12.GOV.14	Compare and contrast major American political ideologies.
9-12.GOV.15	Evaluate the roles of the federal and state governments in the Civil Rights Movement.
9-12.GOV.16	Explain the role and evolution of political parties in governing and in the recruitment/election of political candidates and the importance of and difference between primaries, caucuses, and general elections.
9-12.GOV.17	Evaluate the role of the media/social media as a means of communicating information/misinformation and how it influences the importance of issues and public opinion.

Code	Standard
9-12.GOV.18	Describe the means that citizens use to responsibly participate in the political process, including campaigning, petitioning, demonstrating, running for office, lobbying, and voting.
9-12.GOV.19	Explain the requirements to be considered a natural-born U.S. citizen, and describe the process of naturalization, including the knowledge required by the Naturalization Test.
9-12.GOV.20	Explain the history and significance of dual citizenship regarding American Indians.
9-12.GOV.21	Identify and be able to engage with key officials, both elected and appointed, in the legislative, executive, and judicial branches at the federal, state, and local levels.
9-12.GOV.22	Distinguish between civil rights and civil liberties and how they are put into practice in our daily lives.
9-12.GOV.23	Evaluate the Supreme Court's interpretations of the freedoms articulated in the First Amendment, including <i>Schenck v. United States</i> , <i>New York Times v. United States</i> , <i>Engel v. Vitale</i> , <i>Miller v. California</i> , <i>Tinker v. Des Moines</i> , <i>Texas v. Johnson</i> , and <i>Kennedy v. Bremerton</i> .
9-12.GOV.24	Evaluate the Supreme Court's interpretations of freedoms in the Fourth through Eighth Amendments, including <i>Mapp v. Ohio</i> , <i>Gideon v. Wainwright</i> , and <i>Miranda v. Arizona</i> .
9-12.GOV.25	Evaluate the Supreme Court's interpretations of the freedoms in the 14 th Amendment, equal protection, and due process clauses including <i>Plessy v. Ferguson</i> , <i>Roe v. Wade</i> , <i>Dobbs v. Jackson Women's Health Organization</i> , <i>Gitlow v. New York</i> , <i>Loving v. Virginia</i> , <i>Obergefell v. Hodges</i> , and <i>Brown v. Board of Education</i> , 1954.

C. Political Economy

Code	Standard
9-12.GOV.26	Explain the government's limited role in free enterprise and how that affects individual economic freedoms.
9-12.GOV.27	Evaluate the government's establishment and maintenance of the rules and institutions in which markets operate, including the establishment and

Code	Standard
	enforcement of property rights, contracts, consumer rights, labor-management relations, environmental protection, and competition in the marketplace.
9-12.GOV.28	Compare the types and purposes of taxation that are used by local, state, and federal governments to pay for services provided by the government.
9-12.GOV.29	Describe how the Federal Reserve can use monetary policy to pursue price stability, full employment, and economic growth with the goal of stabilizing the economy.

D. Function and Structure of the United States Political System

Code	Standard
9-12.GOV.30	Analyze Article I and the 17 th Amendment of the Constitution as they relate to the legislative branch, including eligibility for office, roles, duties, casework, length of terms, and election to office for representatives and senators.
9-12.GOV.31	Describe the census and its role in redistricting and reapportionment, including the role of <i>Baker v. Carr</i> .
9-12.GOV.32	Identify leadership positions of the legislative branch, including majority and minority leaders, the president pro tempore, the role of the Vice president, and the Speaker of the House.
9-12.GOV.33	Describe the process of how a bill becomes law.
9-12.GOV.34	Describe the powers of United States' Congress, including appropriations, declaration of war, commerce, implied powers, confirmations, necessary and proper clauses, and powers of impeachment and oversight.
9-12.GOV.35	Analyze Article II of the Constitution as it relates to the executive branch, including appointments, oath of office, Commander-in-chief of the military, powers of the president, eligibility for office, succession (25 th Amendment), executive orders, treaties, length of term (20 th and 22 nd Amendments).
9-12.GOV.36	Identify major departments of the executive branch, including cabinet and non-cabinet level departments and agencies, <u>along with the development and growth of federal administrative state</u> .
9-12.GOV.37	Explain the Electoral College system, and how it has evolved over time, and compare arguments for and against it.

Code	Standard
9-12.GOV.38	Analyze Article III of the Constitution as it relates to judicial power, including the length of terms and the jurisdiction of the U.S. Supreme Court.
9-12.GOV.39	Analyze the origin and evolution of the modern federal court structure including the Judiciary Act of 1789.
9-12.GOV.40	Explain the processes of selection and confirmation of Supreme Court justices.
9-12.GOV.41	Describe the Supreme Court’s role, established by Marbury vs. Madison, in determining the constitutionality of laws and acts of the legislative and executive branches.
9-12.GOV.42	Compare and contrast different judicial philosophies including activism vs. conservatism, originalism vs. living constitution, and textualism.
9-12.GOV.43	Explain the functions, powers, interactions, and dynamic relationships among federal, state, local, and tribal governments including the roles of the 10 th Amendment, <i>McCulloch vs Maryland</i> , <i>Gibbons vs. Ogden</i> , and evolution from dual federalism to cooperative federalism.
9-12.GOV.44	Analyze and discuss sovereignty and the federal responsibility the United States has with federally recognized American Indian tribes with emphasis on Idaho, such as hunting and fishing rights, and land leasing.
9-12.GOV.45	Explain the organization and powers of state and local government as described in the Constitution of the State of Idaho by analyzing legislative, executive, and judicial branches.
9-12.GOV.46	Compare the lawmaking process at the national, state, and local level.
9-12.GOV.47	Understand the structure, powers, and lawmaking process of local government (county, city, special district) by analyzing the relationships between state and local governments and the roles of regional authorities, governing boards, and commissions.
9-12.GOV.48	Compare partisan and non-partisan offices and elections.

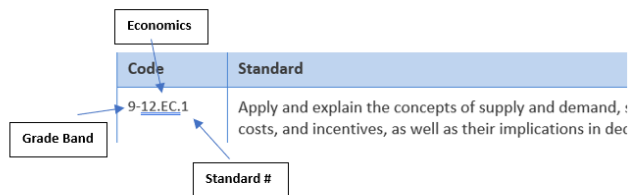
E. The American Electoral System

Code	Standard
9-12.GOV.49	Describe the evolution of voting (methods and process) and enfranchisement including key amendments (15 th , 19 th , 23 rd , 24 th , 26 th) and laws (1965 Voting Rights Act) that have extended the right to vote to previously disenfranchised Americans.
9-12.GOV.50	Examine campaign finance laws and campaign funding and spending, including the impact of Supreme Court decisions, the nationalization of campaign financing, and the role of interest groups.
9-12.GOV.51	Describe the nomination and election process in American national and state elections, including the Electoral College.
9-12.GOV.52	Analyze the influence of political parties, media coverage, campaign advertising, interest groups, public opinion polls, social media, and digital communications on elections.
9-12.GOV.53	Explain the impact of reapportionment and redistricting on elections and governance.
9-12.GOV.54	Explain the role of state governments in administering elections and compare different state's voting rules and elections laws.
9-12.GOV.55	Evaluate the challenges of the election process.

F. The United States and the International System

Code	Standard
9-12.GOV.56	Compare the different forms of domestic and foreign political systems, electoral systems, economic systems, and civil societies including presidential vs parliamentary, unitary vs federal, and autocracy vs democracy.
9-12.GOV.57	Describe the characteristics of United States foreign policy and how it has been created and implemented over time.
9-12.GOV.58	Identify and evaluate the role of the United States in international organizations, agreements, treaties, and humanitarian relief efforts.
9-12.GOV.59	Evaluate the changing role of the United States in supporting democratic principles and institutions in the international system.

VIII. ECONOMICS GRADES 9-12



A. Fundamental Economic Concepts

Code	Standard
9-12.EC.1	Apply and explain the concepts of supply and demand, scarcity, opportunity costs, and incentives, as well as their implications for decision-making.
9-12.EC.2	Identify ways in which the interaction of all buyers and sellers influences prices.
9-12.EC.3	Identify how incentives determine what is produced and distributed in a competitive market system.
9-12.EC.4	Describe the factors of production.
9-12.EC.5	Analyze the various parts of the business cycle and its effect on the economy.
9-12.EC.6	Compare and contrast the characteristics of different economic systems and economic philosophies.

B. Macroeconomics and International Trade

Code	Standard
9-12.EC.7	Analyze the impact of events such as wars, industrialization, and technological developments on the business cycle.
9-12.EC.8	Explain monetary policy, fiscal policy, and the role of the Federal Reserve.
9-12.EC.9	Examine the economic implications of fiscal policy in the United States including federal taxation, spending, and the national debt.

Code	Standard
9-12.EC.10	Analyze global economic interdependence and competition.
9-12.EC.11	Apply economic concepts to explain the role of imports/exports both nationally and internationally.
9-12.EC.12	Describe the elements of entrepreneurship and successful businesses including comparative advantage, specialization, and trade.
9-12.EC.13	Identify the roles of financial markets and institutions on the economy.

C. Personal Finance

Code	Standard
9-12.EC.14	Demonstrate how to set financial goals and analyze the costs and benefits of spending decisions.
9-12.EC.15	Demonstrate procedures for opening and managing checking and savings accounts, including writing checks, managing virtual accounts, and accessing statements.
9-12.EC.16	Evaluate types of investments to determine how they meet the objectives of a personal financial plan including compound interest over time.
9-12.EC.17	Research and analyze information on credit options available to consumers.
9-12.EC.18	Demonstrate how to use comparison shopping skills to make purchasing decisions, including major purchases and college education.
9-12.EC.19	Research and report on factors that affect creditworthiness and credit scores.
9-12.EC.20	Describe how life, health, home, and auto insurance protects against loss and mitigates financial consequences.
9-12.EC.21	Analyze the federal, state, and local tax systems and how they relate to each citizen and the citizen's income and the society.
9-12.EC.22	Explain how sales and property taxes affect financial decisions in terms of both personal finances and public services provided to citizens.
9-12.EC.23	Build a monthly budget for an individual or a family given their income, savings goals, taxes, and list of fixed and variable expenses.

Code	Standard
9-12.EC.24	Identify and evaluate modern consumer skills, tools, and practices.

As a part of the revisions to Social Studies, a committee of educators and subject matter experts from across the state came together to create a consistent set of content standards for a course in Western Civilization. These standards are now available for schools and districts that choose to offer it. The standards span from 800 BC to 1815 AD and focus on the foundations of Western Civilization, offering guidance on key ideas, events, and figures that shaped the modern Western world.

Respectfully,

The Foundations of Western Civilization Standards Committee

Scott Arnold

Monica Church

Jim Francis

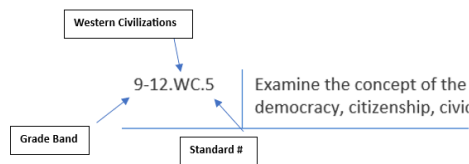
Ralph Ginorio

Vincent Kane

Samuel Lair

Karen Miller

IX. FOUNDATIONS OF WESTERN CIVILIZATION GRADES 9-12



A. Introduction to Study of Western Civilization

<u>Code</u>	<u>Standard</u>
<u>9-12.WC.1</u>	<u>Explain how geography influenced the development of Western Civilization</u>
<u>9-12.WC.2</u>	<u>Explain how Western civilization is distinct from other cultures and civilizations and arose primarily from a synthesis of cultures, including, but not limited to classical Greco-Roman civilization, Judeo-Christian influence, and the cultures of northern European peoples.</u>

B. Ancient Greece (c. 800 BC – 150 BC)

<u>Code</u>	<u>Standard</u>
<u>9-12.WC.3</u>	<u>Examine the Hellenic concept of the polis in Greek city-states, including, but not limited to the ideas of democracy, citizenship, civic participation, and the rule of law.</u>
<u>9-12.WC.4</u>	<u>Analyze the causes and consequences of the Persian and Peloponnesian Wars.</u>
<u>9-12.WC.5</u>	<u>Analyze the contributions of Alexander the Great and the development of the Hellenistic world.</u>
<u>9-12.WC.6</u>	<u>Explain the significance of ancient Greek literature, including, but not limited to the <i>Iliad</i> and the <i>Odyssey</i>.</u>
<u>9-12.WC.7</u>	<u>Analyze the ideas of ancient Greek philosophers including but not limited to Socrates, Plato, Aristotle, and their impact on Western thought.</u>

C. Ancient Rome (c. 500 BC – 500 AD)

<u>Code</u>	<u>Standard</u>
<u>9-12.WC.8</u>	<u>Describe the government of the Roman Republic and its contribution to the development of modern democratic principles including, but not limited to separation of powers, rule of law, representative government, and civic duty.</u>
<u>9-12.WC.9</u>	<u>Describe the class system of ancient Rome, including the role of patricians, plebeians, and slaves in Roman society.</u>
<u>9-12.WC.10</u>	<u>Describe the causes and consequences of the Punic Wars on the development of the Roman Republic.</u>
<u>9-12.WC.11</u>	<u>Describe the fall of the Roman Republic, including, but not limited to the role of Julius Caesar taking the role of Dictator for Life.</u>
<u>9-12.WC.12</u>	<u>Describe the causes and consequences of the establishment of the Roman Empire by the Julio-Claudians, including, but not limited to the role of Augustus Caesar.</u>
<u>9-12.WC.13</u>	<u>Describe the process of Romanization and explain the characteristics of Pax Romana.</u>
<u>9-12.WC.14</u>	<u>Analyze the reasons for the gradual decline of the Western Roman Empire after the Pax Romana.</u>
<u>9-12.WC.15</u>	<u>Analyze the causes and consequences of Diocletian's reforms and Constantine the Great's establishment of "New Rome" (Constantinople) and the recognition of Christianity as a legal religion.</u>
<u>9-12.WC.16</u>	<u>Analyze the Hebrew tradition and its influence on Western Civilization.</u>
<u>9-12.WC.17</u>	<u>Explain the expulsion of the Jewish people from their homeland and the subsequent Jewish diaspora.</u>
<u>9-12.WC.18</u>	<u>Analyze the Hebrew and Classical origins and central features of early Christianity, including key people, texts, events, and major teachings.</u>
<u>9-12.WC.19</u>	<u>Analyze the impact of Christianity on Classical culture and society and the formation of the Catholic Church.</u>

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D. The Middle Ages (c. 330 AD – 1450 AD)

<u>Code</u>	<u>Standard</u>
<u>9-12.WC.20</u>	<u>Identify key figures of the Byzantine Empire, including but not limited to Justinian and Theodora, and explain their contributions to its history and culture.</u>
<u>9-12.WC.21</u>	<u>Describe the orders of medieval social hierarchy, the changing role of the Church, the emergence of feudalism and the development of feudal obligations.</u>
<u>9-12.WC.22</u>	<u>Explain the importance of Christian monasteries and convents as centers of education, missionary activity, economic productivity, and political power, including, but not limited to the contributions of St. Benedict and Pope Gregory the Great.</u>
<u>9-12.WC.23</u>	<u>Identify key figures, artistic and intellectual achievements of the medieval period in Western Europe, (e.g. Thomas Aquinas, Hildegard von Bingen, Dante, Gothic architecture, scholasticism, etc.).</u>
<u>9-12.WC.24</u>	<u>Explain how Charlemagne reshaped and redefined medieval Europe.</u>
<u>9-12.WC.25</u>	<u>Explain the reintroduction of Classical thought from the Islamic World into Christendom.</u>
<u>9-12.WC.26</u>	<u>Analyze the causes and consequences of the Crusades and Reconquista on Christian, Muslim, and Jewish populations.</u>
<u>9-12.WC.27</u>	<u>Describe the emergence, tenets, and expansion of Islamic Civilization under the Caliphates.</u>
<u>9-12.WC.28</u>	<u>Analyze the causes and consequences of the Norman Conquest of England.</u>
<u>9-12.WC.29</u>	<u>Analyze the relationships between the Papacy and the European monarchs.</u>
<u>9-12.WC.30</u>	<u>Explain key developments in medieval English legal and constitutional history, including the impact of the Magna Carta on limiting the monarch's power, the development of a Parliament, establishing the rule of law, and securing the right to trial by jury.</u>

E. The Renaissance and Reformation (c. 1450 AD – 1600 AD)

<u>Code</u>	<u>Standard</u>
<u>9-12.WC.31</u>	<u>Explain humanism and describe how Thomas Aquinas's writings influenced humanistic thought and fostered a balance between reason and faith.</u>
<u>9-12.WC.32</u>	<u>Analyze the ideas of Renaissance and Northern humanism.</u>
<u>9-12.WC.33</u>	<u>Analyze the significance of Renaissance art, including, but not limited to:</u> • <u>Leonardo da Vinci</u> • <u>Michelangelo</u> • <u>Brunelleschi</u> • <u>Raphael</u>
<u>9-12.WC.34</u>	<u>Analyze Johannes Gutenberg's printing press and its effect on society (e.g. growth of literacy and the dissemination of ideas).</u>
<u>9-12.WC.35</u>	<u>Summarize religious reforms associated with key figures and movements, including, but not limited to, Luther, Calvin, Zwingli, Henry VIII, John of Leyden, Ignatius of Loyola (Jesuits), and the Council of Trent, and analyze the effects of the Reformation and Counter-Reformation on Europe.</u>
<u>9-12.WC.36</u>	<u>Analyze the causes and consequences of the fall of Constantinople.</u>

F. The Age of Discovery and Scientific Revolution (c. 1400 AD – 1700 AD)

<u>Code</u>	<u>Standard</u>
<u>9-12.WC.37</u>	<u>Analyze the Golden Age of the Tudor dynasty including, but not limited to Queen Elizabeth I, the works of William Shakespeare, the defeat of the Spanish Armada, and the rise of English power in Europe.</u>
<u>9-12.WC.38</u>	<u>Analyze the causes and consequences of the Thirty Years' War.</u>
<u>9-12.WC.39</u>	<u>Analyze the causes and consequences of the Age of Discovery and the rise of European Empires.</u>
<u>9-12.WC.40</u>	<u>Identify the major contributions of individuals associated with the Scientific Revolution, including, but not limited to Copernicus, Kepler, Galileo, Newton, Bacon, and Descartes.</u>
<u>9-12.WC.41</u>	<u>Analyze the causes and consequences of the English Civil War and the Glorious Revolution.</u>

G. The Enlightenment and the Age of Revolution (c. 1600 AD – 1815 AD)

<u>Code</u>	<u>Standard</u>
<u>9-12.WC.42</u>	<u>Identify the characteristics of Absolutism and Divine Right of Kings (e.g. Louis XIV, James I, Charles I).</u>
<u>9-12.WC.43</u>	<u>Analyze the ideas and effects of the major ideas of Enlightenment philosophers including, but not limited to:</u> • <u>Thomas Hobbes</u> • <u>John Locke</u> • <u>Voltaire</u> • <u>Baron de Montesquieu</u> • <u>Jean-Jacques Rousseau</u> • <u>Adam Smith</u>
<u>9-12.WC.44</u>	<u>Analyze the causes and consequences of the Second Agricultural Revolution and the early Industrial Revolution.</u>
<u>9-12.WC.45</u>	<u>Analyze the extent to which the Enlightenment influenced the American and French Revolutions.</u>
<u>9-12.WC.46</u>	<u>Analyze the major events of the French Revolution (e.g., storming of the Bastille, execution of Louis XVI, reign of terror), and trace the evolution of France's government from constitutional monarchy to democratic despotism.</u>
<u>9-12.WC.47</u>	<u>Analyze the causes and consequences of the Napoleonic Era.</u>
<u>9-12.WC.48</u>	<u>Evaluate the significance of the Congress of Vienna and the Concert of Europe in reshaping Europe after the Napoleonic Wars.</u>
<u>9-12.WC.49</u>	<u>Explain how the American experiment, republic emerged from the traditions of the West.</u>

For Questions ContactContent and CurriculumDr. Scott Thunstrom, DirectorIdaho Department of Education650 W State Street, Boise, ID 83702208 332 6800 | www.sde.idaho.gov**Commented [NW4]:** Non-substantive clarification**Formatted:** Font color: Blue, Highlight**Formatted:** Highlight**Formatted:** Underline, Font color: Custom Color(RGB(229,0,0)), Highlight

2025 OSBE Proposed Rule Public Comment Summary

Summary of Comments

During the 21-day comment Period, October 1 through October 22, there were a total of 26 comments submitted. The comments pertained to different aspects of the sections of the proposed rules; however, the majority were surrounding the updated incorporated by reference document Special Education Manual in 08.0203.2501. All public comments submitted to the State Board of Education were received through email. The Idaho Department of Education (IDE) received their own feedback and comments separately from the State Board of Education. The summary of their feedback and comments is included and labeled in The State Board of Education's summary.

There were a total of 5 Rules open for Public comment during this comment period (October 1-22).

1. IDAPA – 08-0202-2501 – Rules Governing Uniformity – Regarding CTE endorsements and Code of Ethics
2. IDAPA – 08-0203-2501 – Rules Governing Thoroughness – Regarding SS content standards
3. IDAPA – 08-0203-2502 – Rules Governing Thoroughness – Regarding Special Education Manual
4. IDAPA – 08-0205-2501 – Rules Governing Pay for Success Contracting – Regarding the entire rule removal
5. IDAPA – 55-0103-2501 – Rules of Career Technical Centers– Regarding definition removal

No comments were received for the other rules listed below.

- IDAPA – 08-0205-2501 – Rules Governing Pay for Success Contracting – Regarding the entire rule removal
- IDAPA – 55-0103-2501 – Rules of Career Technical Centers– Regarding definition removal

Rules Governing Uniformity 08.0202.2501

Summary: The proposed changes to subsection 08.02.02.076, Code of Ethics for Idaho Professional Educators aim to reduce unethical interactions between educators and students by limiting educator/student communications to district approved devices and platforms that can be viewed and monitored by district staff.

Additional changes are regarding CTE certification. To add the word “standard” prior to the CTE Administrator certificate, indicating it is in the same classification as other standard certificates and eligible for reinstatement as well as other general clarification around current requirements for using alternative routes to add endorsement for current certificate holders, eliminating duplicative language regarding minimum required coursework for all CTE instructional staff, and adds a reference to the new lifetime certificate.

Public Comment (2) – Amy White

The comment was received in email form. The commenter supports the goal of ensuring professional communication between educators and students but suggests revising the proposed rule to allow communication on district-approved devices, not just district-owned devices. They note that in some

situations—such as extracurricular activities or emergencies—using a personal device may be appropriate if approved by the district. This flexibility would maintain professional standards while accommodating practical communication needs.

Public Comment (3) – Kate Haas

The comment was received in email form. The commenter identifies a potential loophole in Rule 08.02.02.076.06(f) concerning inappropriate use of school technology. While the rule prohibits engaging in sexually explicit activity on school devices or networks, it does not explicitly cover school-based accounts (e.g., school Google accounts), which can be accessed from any device or location. The commenter suggests expanding the rule to include activity conducted through school accounts, regardless of the device or network used, to prevent inappropriate behavior outside of school premises.

Public Comment (19) – Kristi Enger

The commenter expresses concern about proposed changes to IDAPA 08.02.02.021, specifically the section on Alternative Authorization – Teacher to New Endorsement. They explain that the current rule has allowed flexibility for teachers to add endorsements across instructional areas, including between CTE and non-CTE fields, which has helped districts fill positions efficiently. The proposed new language—requiring that endorsements match the “type of instructional certificate” held—would restrict that flexibility and make it harder for teachers to earn new endorsements, adding cost and time burdens. The commenter also cautions against removing language that supports CTE-specific training, arguing that it’s essential preparation for success in CTE classrooms. They recommend keeping that section intact or revising it to allow equivalent “training” rather than only formal coursework, emphasizing that these changes would maintain teacher support and program quality without adding unnecessary barriers.

08.0202.2501 SUMMARY OF COMMENTS (3)

Two comments addressed the Code of Ethics for Idaho Professional Educators (08.02.02.076). Both supported strengthening professional boundaries between educators and students but recommended clarifying language—one suggesting communication be allowed on district-approved (not just district-owned) devices, and another urging the rule to also cover misconduct through school accounts accessed off campus.

A third comment focused on Alternative Authorization – Teacher to New Endorsement (08.02.02.021), opposing limits that would restrict teachers from adding endorsements across certificate types. The commenter emphasized that current flexibility helps districts fill positions and supports professional growth, recommending retention of CTE-specific training language or equivalent options to reduce barriers for educators.

Rules Governing Thoroughness 08.0203.2501

Summary: The proposed rule and redline describe/show that SDE will be revising the Special Education Manual incorporated by reference document.

Public Comment (4) – Rebecca Summerlin

The comment was received in email form. The commenter supports changing special education evaluation timelines from calendar days to school days, arguing this would create a fairer and more practical system

for completing student evaluations. They explain that calendar days continue to elapse even when schools are closed—such as during holidays, breaks, or unexpected closures—reducing the actual working time teams have to conduct assessments and meetings. This issue is especially significant for districts with four-day school weeks, which already lose a workday each week under the same calendar-based deadlines.

They emphasize that calendar-day deadlines pressure staff to rush evaluations, which can compromise quality, collaboration, and student outcomes. In contrast, adopting a 45 school-day timeline would ensure evaluations occur when staff and resources are available

The commenter, a special education teacher with 12 years of experience, argues that evaluation timelines should be based on school days rather than calendar days. They explain that using calendar days creates unrealistic expectations, since time continues to count down during breaks, professional development days, and closures—periods when staff and students are not present. This is particularly burdensome for districts on four-day school weeks.

Public Comment (5) – Kerstyn Martin

The commenter advocates for a 45 school day timeline, which would reflect actual working conditions, allow for more thorough and collaborative evaluations, and prevent compliance issues caused by factors outside a district's control. The commenter notes that this approach is already accepted in other states through OSEP audits and maintains accountability while supporting fairer, more practical implementation.

Public Comment (6) – Letha Blick

The commenter urges the Idaho State Board of Education to adopt a 45 school day evaluation timeline instead of the 60 calendar day timeline proposed in the draft Special Education Manual. (Attachment references were provided in the email)

Argument points

- Calendar day timelines are unrealistic and inequitable, especially for districts with 4-day school weeks or extended breaks (holiday, summer, harvest, etc.), because days continue to count when school is not in session.
- A 45 school day rule aligns with Idaho's former "State Exception Rule," which excluded breaks of 5 days or more, and produces nearly identical completion dates under typical school calendars.
- Using calendar days can cause evaluations to fall during school breaks, making it impossible to complete assessments, hold meetings, or collect intervention data within the required period—potentially exposing districts to due process complaints or FAPE (Free Appropriate Public Education) violations.
- Implementing a 60-calendar-day rule would force districts to extend or renegotiate staff contracts (teachers, psychologists, SLPs, OTs, PTs, nurses, etc.) to cover breaks, which is financially and logistically unfeasible given staffing shortages and limited budgets.

Citing's under IDEA

- The IDEA regulation allows states to define their own "reasonable" timelines for evaluations.
- Several states—including California, Florida, Michigan, Ohio, Missouri, North Carolina, Tennessee, Utah, and Nevada—already use school-day-based timelines that have been approved through OSEP's Differentiated Monitoring and Support (DMS) audits.

- Recent DMS audits (Alaska 2023, Colorado 2024, Nevada 2024, Kansas 2025) confirm that 45-school-day timelines are federally compliant.

Additionally, the letter includes supportive comments from multiple Idaho special education directors who describe staffing shortages, scheduling challenges, and lack of summer personnel as major barriers to compliance with a 60-calendar-day rule.

Public Comment (7) – Letha Blick

The commenter asks the Idaho State Board of Education to add a formal appeal process to Chapter 13 of the 2025 Idaho Special Education Manual, which governs state complaint procedures.

They explain that currently, once the Idaho Department of Education (IDE) issues findings or corrective actions following a state complaint, there is no avenue for appeal. Districts that disagree with those findings can only file for a due process hearing, but the IDE is usually dismissed from such cases—leaving no meaningful way to challenge the IDE’s determinations short of filing an expensive and burdensome lawsuit in federal court.

The commenter argues that this lack of review undermines fairness, transparency, and accountability in the state complaint system. They propose a detailed, multi-step appeal framework.

1. Informal review with IDE to clarify or resolve disputes;
2. Formal written appeal within 30 days;
3. Independent review panel (within IDE or via the Office of Administrative Hearings) empowered to uphold, modify, or overturn findings;
4. Decision within 45 days;
5. Further legal recourse available if either party disagrees.

They note that **other states** already have similar procedures, and adopting one would align Idaho’s practices with IDEA’s intent for balanced, collaborative dispute resolution. (Attachment reference were provided in the email)

Public Comment (8) – Suzanna Altsuler

The commenter expresses support for adopting a 45-school-day evaluation timeline. They explain that in rural districts with limited staff spread across large geographic areas, it is difficult to complete evaluations within the current 60-calendar-day limit—especially during extended breaks. A 45-school-day timeline would ensure that students are present during the evaluation period and help alleviate logistical challenges faced by service providers.

Public Comment (9) – Debi Smith

The commenter supports approval of the revised Idaho Special Education Manual, noting they helped with its rewrite. They say it was a collaborative, statewide effort to align with IDEA and state law while improving clarity, accessibility, and support for students with disabilities. Key updates include clearer language, added guidance for homeschool students, and better organization. They urge the Board to approve the manual, emphasizing that it prioritizes students’ needs and strengthens special education practice in Idaho.

Public Comment (10) – Letha Blick

The commenter recommends expanding Section 3 (Charter Schools and Dual Enrollment) to provide clearer guidance and safeguards for both districts and charter schools. Specifically, they suggest:

- Adding language to ensure dual enrollment because it follows open enrollment capacity rules, giving priority to full-time district students when programs are full or closed to open enrollment.
- Clarifying how ADA and Child Count funding will be proportionally allocated through a required MOU between the public district and charter school.
- Establishing a process for resolving disputes if the district and charter school cannot agree on MOU terms.
- Requiring the manual to list mandatory MOU elements, including:
 - o Service responsibilities (e.g., who provides 1:1 aides or nurses for medically fragile students).
 - o Transportation arrangements.
 - o Financial agreements for participation in district programs.
 - o Enrollment priorities and termination conditions for the agreement (e.g., safety, nonpayment, or lack of staffing).

The commenter emphasizes that these clarifications would help prevent confusion, ensure fair access, and address practical challenges—particularly for students needing intensive support services.

Public Comment (11) – Letha Blick

The commenter recommends that Idaho maintain its current rule ending FAPE (Free Appropriate Public Education) at the end of the semester in which a student turns 21. They argue this aligns with Idaho Code, which defines “school age” as up to age 21, and with IDEA, which allows states to limit FAPE based on their own age requirements for general education students. Extending services until age 22, they contend, would go beyond what state law allows, create funding and staffing burdens, and contradict legislative intent. Using the semester cutoff is described as a consistent, educationally sound approach that supports orderly transitions and resource planning.

Public Comment (12) – Letha Blick

The commenter supports keeping decisions about graduation ceremony participation under local district control. They believe graduation is a recognition of students who have earned their diplomas or met adapted IEP requirements, and that allowing students who refused to complete graduation credits to participate undermines that purpose. The commenter notes that nearly all students, including those with disabilities, met requirements or used adapted pathways, and that the few who did not were given multiple opportunities to do so. They emphasize that local control allows districts to apply fair, consistent standards that reflect community expectations and uphold the integrity of the ceremony.

Public Comment (13) – Gabby Twiss

The commenter believes that only students who have met graduation or IEP requirements should participate in graduation ceremonies. They’re concerned that including students who haven’t met these standards could lessen the meaning of a diploma and cause confusion about its value. While they support

recognizing effort and celebrating all students, they suggest holding a separate event for those who haven't yet graduated, rather than changing the purpose of the graduation ceremony itself.

Public Comment (14) – Gabby Twiss

The commenter is asking for a clear appeal process in the Idaho Special Education Manual for districts that want to challenge IDE findings or corrective actions under Chapter 13. Right now, once a decision is issued, districts have no meaningful way to request review, since the IDE is usually dismissed from due process hearings. They argue that adding an appeal process would make the system fairer, more transparent, and more accountable, giving districts a way to address decisions they believe are incorrect.

Comment (15) – Chynna Hirasaki

The commenter, former state Special Education Director, strongly supports approving the proposed Idaho Special Education Manual. They emphasize that the revision process was transparent, collaborative, and focused on students, with input from parents, educators, advocates, and legal experts across the state. The updates are designed to ensure IDEA compliance, improve clarity and consistency, and prioritize timely evaluation and services for students with disabilities. They note that removing state exceptions for evaluation timelines ensures equitable access for all students and that the Department has provided guidance and resources to support implementation. They urge the Board to approve the Manual as written, highlighting that it provides a clear, legally sound, and student-centered framework for special education in Idaho.

Comment (16) – Stephanie Linder

The commenter, is asking the Board to include a formal appeal process for state complaint findings and corrective actions in Chapter 13 of the Special Education Manual. They note that right now, once a complaint decision is issued, districts have no practical way to challenge it, since the IDE is usually dismissed from due process hearings. They argue that adding an appeal process would make the system fairer, more transparent, and more accountable, protecting students' rights and building trust in the complaint process. They suggest a time-limited, clearly defined review handled by an internal or independent panel to ensure consistency and procedural fairness.

Comment (17) – Julie Mead

The commenter supports the Proposed 2025 Idaho Special Education Manual, highlighting that the revision process was collaborative, thoughtful, and involved input from educators, administrators, parents, and statewide experts. They emphasize that the updates are practical, student-focused, and grounded in real-world experience, not administrative convenience. Key improvements include fixing the initial evaluation timeline to prevent delays caused by school breaks and clarifying the Discipline chapter to better guide districts in addressing challenging behaviors while protecting student rights. Overall, they believe the revisions provide clarity, consistency, and stronger support for students, families, and districts, and urge the Board to approve the manual.

Comment (18) – Joy Jansen

The commenter asks the State Board of Education to reconsider adopting a 45 school-day evaluation timeline instead of the proposed 60 calendar-day timeline in the revised Idaho Special Education Manual. They explain that this approach aligns better with Idaho's previous rule, which excluded long school breaks from the timeline, making it more practical and equitable for districts. They note that special education

directors and school psychologists previously requested this change but were denied and urge the Board to revisit and support the 45 school-day option.

Comment (20) – Lyndon Nguyen

The commenter raises significant concerns that several proposed changes in the 2025 Idaho Special Education Manual weaken parent rights and IDEA compliance. They argue that removing examples and definitions—such as for “change of placement,” “educational program,” and “stay put”—creates ambiguity that could allow districts to limit services or exclude students without proper oversight. They strongly object to allowing districts to implement IEPs over parent objections without due process, saying this violates IDEA’s guarantee of meaningful parent participation. The commenter also calls for stronger enforcement mechanisms to ensure FAPE, proper record access, and agency accountability under federal law. They criticize the quality and impartiality of hearing officers, the lack of clear procedures for discovery and subpoenas, and the overall imbalance of power between parents and districts in due process hearings. Finally, they object to replacing the term “district” with “LEA,” arguing that it misrepresents who may be held responsible under IDEA and ignores recent federal findings that such language is noncompliant.

Comment (21) – Rachelle Nielson

The commenter objects to the revised language about graduation ceremonies, arguing that it removes accountability for students with disabilities to meet their IEP graduation requirements before participating in graduation events. They believe this creates an unfair double standard, since general education students must complete all requirements to participate. The commenter supports maintaining flexibility for individual students through the IEP process but insists that participation in graduation ceremonies should be tied to meeting clearly defined, agreed-upon expectations to ensure fairness and uphold high standards for all students.

Comment (22) – Kristian Beckett

The commenter is an attorney representing parents in special education due process cases. They have stated that while the proposed Idaho Special Education Manual improvements are a positive start, they do not go far enough to protect the rights of students and parents under IDEA. They believe the current system allows schools to circumvent federal requirements and that Idaho should strengthen the manual to ensure fairness, accountability, and enforcement.

They urge stronger accountability and enforcement measures to prevent schools from avoiding legal obligations. Key recommendations included adding clear definitions for “change of placement” and “educational program,” strengthening parent participation and stay-put protections, and establishing an enforcement process for districts that fail to comply. They also recommended consistent use of the term “public agency,” clear qualifications and oversight for hearing officers, and inclusion of a state-level review process for due process decisions. Additional suggestions focused on defining fair hearing procedures, clarifying burden of proof rules, limiting the use of civil trespass orders for disability-related behavior, ensuring timely access to student records, and empowering hearing officers to enforce compliance. The commenter also emphasized the importance of parent and advocate involvement in developing and revising special education policy.

Comment (23) – Rachelle Nielson

The commenter urges the Idaho State Board of Education to reconsider the proposed 60-calendar-day evaluation timeline in the new Special Education Manual and instead adopt a 45-school-day timeline. They argue that 45 school days better align with the previous state rule that excluded long breaks and is more practical for districts to meet. Using calendar examples, they showed that a 60-day limit would often force evaluations to be completed during holiday or summer breaks, reducing available time for testing and collaboration. They also warned that the proposed change could increase due process complaints and staffing burdens, especially given shortages of special education personnel. The commenter noted that several other states use a 45-school-day timeline, which they said balances compliance with realistic implementation.

Comment (24) – Romona Lee

The commenter generally supports the proposed updates to Idaho’s Special Education Manual, especially the clearer glossary definitions—such as the inclusion of “counseling services”—though they note a small grammatical fix is needed. They raise concerns about the financial impact of extending services to age 22 and about the proposed 60-calendar-day evaluation timeline, arguing that it could unintentionally delay referrals and suggesting instead a 45-school-day limit with no exceptions. They appreciate clarifications around Independent Educational Evaluations (IEEs) but find some of the new language confusing and potentially allowing multiple IEEs at public expense. They also question the removal of the six-month residency rule for foster parents’ decision-making authority, seek clarification on whether paraprofessional qualifications from other states will be accepted, and support updates regarding private school evaluations. Finally, they ask for clearer language on how LEAs should define “appropriate services” for dually-enrolled homeschool students.

Comment (25) – Joy Jansen

The commenter requests that the State Board of Education provide more comprehensive guidance for serving students in juvenile facilities. They note that the current Juvenile Detention and Special Education document only addresses evaluation and instruction but lacks direction on key areas such as discipline, manifestation determinations, and how IDEA requirements align with state Juvenile Justice Services policies.

08.0203.2501 SUMMARY OF COMMENTS (21)

The majority of comments focused on evaluation timelines, with most urging the Board to replace the proposed 60-calendar-day rule with a 45-school-day timeline. Commenters said this would be more practical, especially for rural or four-day-week districts, prevent evaluation delays during holidays and summer, and align with Idaho’s previous rule and other states’ practices.

Several commenters called for adding a formal appeal process to the manual’s state complaint procedures, arguing that districts currently have no way to appeal Idaho Department of Education findings or corrective actions. They said an appeal option would promote fairness, transparency, and accountability.

A few commenters expressed strong support for approving the manual as written, praising the collaborative and statewide effort to align with IDEA and improve clarity, discipline guidance, and parent engagement.

Others raised concerns about parent rights and IDEA compliance, saying the revisions weaken procedural safeguards by removing key definitions and limiting parent participation or due process protections.

Several comments opposed allowing students who haven't met graduation or IEP requirements to participate in graduation ceremonies, calling it unfair and inconsistent with general education standards.

Additional feedback included concerns about extending FAPE eligibility to age 22 (due to funding and legal conflicts), requests for clearer guidance on charter school and dual enrollment procedures, and technical suggestions about glossary terms, paraprofessional qualifications, foster parent definitions, requesting comprehensive guidance for serving students in juvenile facilities addressing more than evaluation and instruction, and homeschool provisions.

Rules Governing Thoroughness 08.0203.2502

Summary: The proposed rule and redline describe/show that SDE will be revising the k-12 social studies content standards incorporated by reference documents, including Grade 4 Social Studies and Grades 6-12 U.S. History I content standards. Revisions also include a new section on Grades 9-12 Western Civilization.

Public Comment (1) – David Talcot

The comment was received in email form. It expresses the support of the revisions made in the k-12 Social Studies Standards proposed.

- They are in support because they believe it reduces ideological bias, particularly with the influence of “20th century progressive ideology” on students thinking. Additionally, they are in support because they believe it is clearer, promotes traditional, and historical American perspective, and represents a positive overall improvement.

Public Comment (26 Received by IDE) – Callie Avondet

The comment was received in email form by the SDE. They express their hope that the 4th grade social studies standards include the study of influential people in Idaho history. Specifically, Rebecca Brown Mitchell from Idaho Falls/Eagle Rock. The commenter notes that Ms. Mitchell was the driving force behind the passage of women's suffrage in Idaho, successfully lobbied the Idaho legislature for prison reform and to change the age of consent for girls from 10 to 18, and was the first woman to hold the position of legislative chaplain.

08.0203.2502 SUMMARY OF COMMENTS (2)

In support of the changes. Also, would like to see Rebecca Brown Mitchell added to the 4th grade social studies standards.

**BUSINESS AFFAIRS AND HUMAN RESOURCES
NOVEMBER 20, 2025**

TAB	DESCRIPTION	ACTION
1	BOARD POLICY V.E. - GIFTS AND AFFILIATED FOUNDATIONS – FIRST READING	Action Item
2	POLICY V.K. CONSTRUCTION PROJECTS – FIRST READING	Action Item
3	FRIENDS OF IDAHO PUBLIC TELEVISION – OPERATING AGREEMENT UPDATE	Action Item

BUSINESS AFFAIRS AND HUMAN RESOURCES
NOVEMBER 20, 2025

SUBJECT

Board Policy V.E. – Gifts and Affiliated Foundations – First Reading

REFERENCE:

February 2006	Board approved the second reading of amendments to Board Policy V.E.
December 2017	Board approved the first reading of amendments to Board Policy V.E., requiring Board approval of affiliated foundation operating agreements.
February 2018	Board approved second reading of amendments to Board Policy V.E., requiring Board approval of affiliated foundation operating agreements.
April 2019	Board approved first reading of amendments to Board Policy V.E.
June 2019	Board approved second reading of amendments to Board Policy V.E.

APPLICABLE STATUTE, RULE, OR POLICY

Idaho State Board of Education Governing Policies & Procedures, Section V.E., Idaho Code Title 67, Chapter 7

BACKGROUND/DISCUSSION

Policy V.E. sets out how state-governed agencies and institutions may accept private gifts and work with affiliated non-profit foundations in Idaho, ensuring that contributions supplement but do not supplant state funding, that the foundations are properly organized, transparent and accountable, operate under appropriate agreements and comply with laws.

Board Policy V.E. names the foundation Friends of Idaho Public Television, Inc. (Friends) as the recognized affiliated foundation for Idaho Public Television (IPTV) and requires that this foundation's operating agreement and spending authority conform to Federal Communications Commission (FCC) regulations and the Board's policy on gifts and foundations. The policy provides the structural and governance framework under which IPTV can legally, ethically, and transparently receive and manage private gifts through its affiliated foundation, thereby supporting IPTV's mission while staying compliant with state and federal requirements.

On October 6, 2025, the Legislative Services Office (LSO) informed IPTV that it does not have statutory authority to audit the Friends of Idaho Public Television (Friends), a 501(c)(3) nonprofit organization, as a separate legal entity. LSO's authority extends only to audits of state agencies or entities established by the Legislature.

BUSINESS AFFAIRS AND HUMAN RESOURCES
NOVEMBER 20, 2025

Historically, both IPTV and the Friends organization were audited annually by the State Legislative Auditor to meet Corporation for Public Broadcasting (CPB) requirements. Since CPB's dissolution, IPTV has transitioned to a three-year audit cycle, but the Friends organization must continue to complete an annual independent audit to satisfy IRS and governance requirements.

The current Operating Agreement between IPTV and the Friends requires the use of the "State Legislative Auditor." Because LSO cannot perform this audit, IPTV must engage an independent certified public accounting firm to perform the Friends' annual audit beginning in November 2025. This will ensure compliance with IRS deadlines for the Friends' Form 990 filing in May 2026 and requires an update to Board Policy V.E.

IMPACT

To align with current legal and operational requirements, it is proposed that the Operating Agreement between Idaho Public Television, an entity of the Idaho State Board of Education and the Friends of Idaho Public Television be updated as follows:

Current Language: "The Friends of IPTV shall annually conduct an audit consistent with GAAP and GASB requirements through the services of the State Legislative Auditor. No individual designated by the State Legislative Auditor shall be a member of the board of the Friends of IPTV. The annual audit shall be a full scope audit, performed in accordance with GAAP."

Proposed Revised Language: "The Friends of IPTV shall annually engage an independent certified public accountant or audit firm to conduct a full-scope audit of its financial statements in accordance with Generally Accepted Accounting Principles (GAAP) and the Governmental Accounting Standards Board (GASB). No individual employed by or affiliated with the engaged audit firm shall serve as a member or director of the Board of the Friends of IPTV. The annual audit shall be comprehensive and performed in accordance with GAAP standards."

This revision requires an update to Board Policy V.E. to allow the Board to approve and update the Operating Agreement between Idaho Public Television, an entity of the Idaho State Board of Education, and Friends of Idaho Public Television, Inc. This will ensure that policy and the operating agreement are in alignment.

ATTACHMENTS

Attachment 1 – Proposed Amendment to Policy V.E. – Gifts and Affiliated Foundations – Clean Version
Attachment 2 – Proposed Amendment to Policy V.E. – Gifts and Affiliated Foundations – Redline Version

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STAFF COMMENTS AND RECOMMENDATIONS

This is an administrative update to bring Board Policy V.E. into alignment with changes to the updated Operating Agreement between Idaho Public Television, an entity of the State Board of Education, and Friends of Idaho Public Television, Inc. and associated statutory requirement and audit practices.

Board staff recommends approval.

BOARD ACTION

I move to approve the first reading of proposed amendment to Board Policy V.E. - Gifts and Affiliated Foundations, as presented in Attachment 1.

Moved by_____ Seconded by_____ Carried Yes_____ No_____

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GOVERNING POLICIES AND PROCEDURES

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SUBSECTION: E. Gifts and Affiliated Foundations

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1. Purpose of the Policy

- a. The Board recognizes the importance of voluntary private support and encourages grants and contributions for the benefit of the institutions and agencies under its governance. Private support for public education is an accepted and firmly established practice throughout the United States. Tax-exempt foundations are one means of providing this valuable support to help the institutions and agencies under the Board's governance raise money through private contributions. Foundations are separate, legal entities, tax-exempt under Section 501(c) of the United States Internal Revenue Code of 1986, as amended, associated with the institutions and agencies under the Board's governance. Foundations are established for the purpose of raising, receiving, holding, and/or using funds from the private sector for charitable, scientific, cultural, educational, athletic, or related endeavors that support, enrich, and improve the institutions or agencies. The Board wishes to encourage a broad base of support from many sources, particularly increased levels of voluntary support. To achieve this goal, the Board will cooperate in every way possible with the work and mission of recognized affiliated foundations
- b. The Board recognizes that foundations:
 - i. Provide an opportunity for private individuals and organizations to contribute to the institutions and agencies under the Board's governance with the assurance that the benefits of their gifts supplement, not supplant, state appropriations to the institutions and agencies;
 - ii. Provide assurance to donors that their contributions will be received, distributed, and utilized as requested for specified purposes, to the extent legally permissible, and that donor records will be kept confidential to the extent requested by the donor and as allowed by law;
 - iii. Provide an instrument through which alumni and community leaders can help strengthen the institutions and agencies through participation in the solicitation, management, and distribution of private gifts; and
 - iv. Aid and assist the Board in attaining its approved educational, research, public service, student loan and financial assistance, alumni relations, and financial development program objectives.
- c. The Board, aware of the value of tax-exempt foundations to the well being of the institutions and agencies under the Board's governance, adopts this policy with the following objectives:

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- i. To preserve and encourage the operation of recognized foundations associated with the institutions and agencies under the Board's governance; and
- ii. To ensure that the institutions and agencies under the Board's governance work with their respective affiliated foundations to make certain that business is conducted responsibly and according to applicable laws, rules, regulations, and policies, and that such foundations fulfill their obligations to contributors, to those who benefit from their programs, and to the general public.

2. Institutional Foundations**a. General Provisions Applicable to all Affiliated Foundations**

- i. All private support of an institution not provided directly to such institution shall be through a Board approved affiliated foundation. While an institution may accept gifts made directly to the institution or directly to the Board, absent unique circumstances making a direct gift to the institution more appropriate, donors shall be requested to make gifts to the Board approved affiliated foundations.
- ii. Each affiliated foundation shall operate as an Idaho nonprofit corporation that is legally separate from the institution and is recognized as a 501(c)(3) public charity by the Internal Revenue Service. The management and control of a foundation shall rest with its governing board. All correspondence, solicitations, activities, and advertisements concerning a particular foundation shall be clearly discernible as from that foundation, and not the institution.
- iii. The institutions and foundations are independent entities and neither will be liable for any of the other's contracts, torts, or other acts or omissions, or those of the other's trustees, directors, officers, members, or staff.
- iv. It is the responsibility of the foundation to support the institution at all times in a cooperative, ethical, and collaborative manner; to engage in activities in support of the institution; and, where appropriate, to assist in securing resources, to administer assets and property in accordance with donor intent, and to manage its assets and resources.
- v. Foundation funds shall be kept separate from institution funds. No institutional funds, assets, or liabilities may be transferred directly or indirectly to a foundation without the prior approval of the Board except as provided herein. Funds may be transferred from an institution to a foundation without prior Board approval when:

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- 1) A donor inadvertently directs a contribution to an institution that is intended for the foundation. If an affiliated foundation is the intended recipient of funds made payable to the Board or to an institution, then such funds may be deposited with or transferred to the affiliated foundation, provided that accompanying documents demonstrate that the foundation is the intended recipient. Otherwise, the funds shall be deposited in an institutional account, and Board approval will be required prior to transfer to an affiliated foundation; or
 - 2) The institution has gift funds that were transferred from and originated in an affiliated foundation, and the institution wishes to return a portion of funds to the foundation for reinvestment consistent with the original intent of the gift.
 - 3) The transfer is of a *de minimis* amount not to exceed \$10,000 from the Institution to the Foundation and the transferred funds are for investment by the Foundation for scholarship or other general Institution/Agency support purposes.
 - 4) The transfer is of funds raised by the institution for scholarship or program support and the funds are deposited with the affiliated foundation for investment and distribution in accordance with the purpose for which the funds were raised.
- vi. Transactions between an institution and an affiliated foundation shall meet the normal tests for ordinary business transactions, including proper documentation and approvals. Special attention shall be given to avoiding direct or indirect conflicts of interest between the institution and the affiliated foundation and those with whom the foundation does business. Under no circumstances shall an institution employee represent both the institution and foundation in any negotiation, sign for both the institution and foundation in a particular transaction, or direct any other institution employee under their immediate supervision to sign for the related party in a transaction between the institution and the foundation.
- vii. Prior to the start of each fiscal year, an affiliated foundation must provide the institution chief executive officer with the foundation's proposed annual budget, as approved by the foundation's governing board.
- viii. Each foundation shall conduct its fiscal operations to conform to the institution's fiscal year. Each foundation shall prepare its annual financial statements in accordance with Government Accounting Standards Board (GASB) or Financial Accounting Standards Board (FASB) principles, as appropriate.

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- ix. Institution chief executive officers shall be invited to attend all meetings of an affiliated foundation's governing board in an advisory role. On a case by case basis, other institution employees may also serve as advisors to an affiliated foundation's governing board, as described in the written foundation operating agreement approved by the Board.
- x. Although foundations are private entities and are not subject to the Idaho Public Records Law, foundations, while protecting personal and private information related to private individuals, are encouraged, to the extent reasonable, to be open to public inquiries related to revenue, expenditure policies, investment performance and/or similar non-personal and non-confidential financial or policy information.
- xi. A foundation's enabling documents (e.g., articles of incorporation and bylaws) and any amendments are to be provided to the institution. These documents must include a clause requiring that in the event of the dissolution of a foundation, its assets and records will be distributed to the Board or the affiliated institution. To the extent practicable, the foundation shall provide the institution with an advance copy of any proposed amendments, additions, or deletions to its articles of incorporation or bylaws. The institution shall be responsible for providing all of the foregoing documents to the Board.
- xii. Foundations may not engage in activities that conflict with federal or state laws, rules and regulations; or cause an institution to be in violation of Board policy; or the role and mission of the institutions. Foundations shall comply with applicable Internal Revenue Code provisions and regulations and all other applicable policies and guidelines.
- xiii. Fund-raising campaigns and solicitations of major gifts for the benefit of an institution by its affiliated foundation shall be developed cooperatively between the institution and its affiliated foundation. Before accepting contributions or grants for restricted or designated purposes that may require administration or direct expenditure by an institution, a foundation will obtain the prior approval of the institution chief executive officer or a designee.
- xiv. Foundations shall obtain prior approval in writing from the institution chief executive officer or a designee if gifts, grants, or contracts include a financial or contractual obligation binding upon the institution.
- xv. Foundations shall make clear to prospective donors that:
 - 1) The foundation is a separate legal and tax entity organized for the purpose of encouraging voluntary, private gifts, trusts, and bequests for the benefit of the institution; and

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- 2) Responsibility for the governance of the foundation, including investment of gifts and endowments, resides in the foundation's governing board.

xvi. Institutions shall ensure that foundation controlled resources are not used to acquire or develop real estate or to build facilities for the institution's use without prior Board approval. The institution shall notify the Board, at the earliest possible date, of any proposed purchase of real estate for such purposes, and in such event should ensure that the foundation coordinates its efforts with those of the institution. Such notification to the Board may be through the institution's chief executive officer in executive session pursuant to Idaho Code, Section 74-206(1)(c).

b. Foundation Operating Agreements

Each institution shall enter into a written operating agreement with each of its affiliated foundations that ensures compliance with this Policy.

Board approval of affiliated foundation operating agreements is required if an affiliated foundation will receive donations, membership dues, gifts or other funds (collectively "funds") and delivers those funds directly to the institution. If an affiliated foundation will not receive or maintain funds, or if it routes all funds received to the institution through another Board-approved affiliated foundation, Board approval of the operating agreement is not required. In such cases, the institution shall ensure that services provided by a Board approved affiliated foundation to another affiliated foundation are provided pursuant to a service agreement between the affiliated foundations which complies with Board policy, a copy of which is available to the institution and to the Board.

Operating agreements must be signed by the chairman or president of the foundation's governing board, and by the institution chief executive officer. Operating agreements requiring Board approval must be approved by the Board prior to execution and must be re-submitted to the Board for re-approval every three (3) years, or as otherwise requested by the Board. Operating agreements shall follow the operating agreement template approved by the Board and found at <http://boardofed.idaho.gov/>. When an operating agreement is presented to the Board for review, an institution must include a redline to the Board's operating agreement template, as well as a redline to the previously Board approved version of the operating agreement, if there is one.

Foundation operating agreements shall establish the operating relationship between the parties, and shall, at a minimum, address the following topics:

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- i. Institution Resources and Services.
 - 1) Whether, and how, an institution intends to provide contract administrative and/or support staff services to an affiliated foundation. When it is determined that best practices call for an institution employee to serve in a capacity that serves both the institution and an affiliated foundation, then the operating agreement must clearly define the authority and responsibilities of this position within the foundation. Notwithstanding, no employee of an institution who functions in a key administrative or policy making capacity (including, but not limited to, any institution vice-president or equivalent position) shall be permitted to have responsibility or authority for foundation policy making, financial oversight, spending authority, investment decisions, or the supervision of foundation employees. The responsibility of this position within the foundation that is performed by an institution employee in a key administrative or policy making capacity shall be limited to the coordination of institution and affiliated foundation fundraising efforts, and the provision of administrative support to foundation fundraising activities.
 - 2) Whether, and how, an institution intends to provide other resources and services to an affiliated foundation, which are permitted to include:
 - a) Access to the institution's financial systems to receive, disburse, and account for funds held (with respect to transactions processed through the institution's financial system, the foundation shall comply with the institution's financial and administrative policies and procedures manuals);
 - b) Accounting services, to include cash disbursements and receipts, accounts receivable and payable, bank reconciliation, reporting and analysis, auditing, payroll, and budgeting;
 - c) Investment, management, insurance, benefits administration, and similar services; and
 - d) Development services, encompassing research, information systems, donor records, communications, and special events.
 - 3) Whether the foundation will be permitted to use any of the institution's facilities and/or equipment, and if so, the details of such arrangements.
 - 4) Whether the institution intends to recover its costs incurred for personnel, use of facilities or equipment, or other services provided to the foundation. If so, then payments for such costs shall be made directly to the institution.

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No payments shall be made directly from a foundation to institution employees in connection with resources or services provided to a foundation pursuant to this policy.

ii. Management and Operation of Foundations.

- 1) Guidelines for receiving, depositing, disbursing and accounting for all funds, assets, or liabilities of a foundation, including any disbursements/transfers of funds to an institution from an affiliated foundation. Institution officials into whose department or program foundation funds are transferred shall be informed by the foundation of the restrictions, if any, on such funds and shall be responsible both to account for them in accordance with institution policies and procedures, and to notify the foundation on a timely basis regarding the use of such funds.
- 2) Procedures with respect to foundation expenditures and financial transactions, which must ensure that no person with signature authority shall be an institution employee in a key administrative or policy making capacity (including, but not limited to, an institution vice-president or equivalent position).
- 3) The liability insurance coverage the foundation will have in effect to cover its operations and the activities of its directors, officers, and employees.
- 4) Description of the investment policies to be utilized by the foundation, which shall be conducted in accordance with prudent, sound practice to ensure that gift assets are protected and enhanced, and that a reasonable return is achieved, with due regard for the fiduciary responsibilities of the foundation's governing board. Moreover, such investments must be consistent with the terms of the gift instrument.
- 5) Procedures that will be utilized to ensure that institution and foundation funds are kept separate.
- 6) Detailed description of the organization structure of the foundation, which addresses conflict of interest in management of funds and any foundation data.

iii. Foundation Relationships with the Institutions

- 1) The institution's ability to access foundation books and records.
- 2) The process by which the institution chief executive officer, or designee, shall interact with the foundation's board regarding the proposed annual

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operating budget and capital expenditure plan prior to approval by the foundation's governing board.

- 3) Whether, and how, supplemental compensation from the foundation may be made to institutional employees. Any such payments must have prior Board approval, and shall be paid by the foundations to the institutions, which in turn will make payments to the employee in accordance with normal practice. Employees shall not receive any payments or other benefits directly from the foundations.

iv. Audits and Reporting Requirements.

- 1) The procedure foundations will utilize for ensuring that regular audits are conducted and reported to the Board. Unless provided for otherwise in the written operating agreement, such audits must be conducted by an independent certified public accountant, who is not a director or officer of the foundation. The independent audit shall be a full scope audit, performed in accordance with generally accepted auditing standards.
- 2) The procedure foundations will use for reporting to the institution chief executive officer the following items:
 - a) Regular financial audit report;
 - b) Annual report of transfers made to the institution, summarized by department;
 - c) Annual report of unrestricted funds received, and of unrestricted funds available for use in that fiscal year;
 - d) A list of foundation officers, directors, and employees;
 - e) A list of institution employees for whom the foundation made payments to the institution for supplemental compensation or any other approved purpose during the fiscal year, and the amount and nature of that payment;
 - f) A list of all state and federal contracts and grants managed by the foundation; and
 - g) An annual report of the foundation's major activities;
 - h) An annual report of each real estate purchase or material capital lease, investment, or financing arrangement entered into during the preceding

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foundation fiscal year for the benefit of the institution; and

- i) An annual report of any actual litigation involving the foundation during its fiscal year, as well as legal counsel used by the foundation for any purpose during such year. This report should also discuss any potential or threatened litigation involving the foundation.

v. Conflict of Interest and Code of Ethics and Conduct.

A description of the foundation's conflict of interest policy approved by the foundation's governing board and applicable to all foundation directors, officers, and staff members, and which shall also include a code of ethics and conduct. Such policy must assure that transactions involving the foundation and the personal or business affairs of a trustee, director, officer, or staff member should be approved in advance by the foundation's governing board. In addition, such policy must provide that directors, officers, and staff members of a foundation disqualify themselves from making, participating, or influencing a decision in which they have or would have a financial interest. Finally, such policy must assure that no director, trustee, officer, or staff member of a foundation shall accept from any source any material gift or gratuity in excess of fifty dollars (\$50.00) that is offered, or reasonably appears to be offered, because of the position held with the foundation; nor should an offer of a prohibited gift or gratuity be extended by such an individual on a similar basis.

vi. Affiliated Research Foundations and Technology Transfer Organization for Institutions of Higher Education

The Board wishes to encourage research and technology transfer and the corresponding economic development potential for the state of Idaho. The Board acknowledges that independent, affiliated foundations operating to support an institution's research and technology transfer efforts can be useful tools to provide institutions with avenues for engagement with the private sector as well as with public and private entities interested in funding research, funding technology transfer and promoting spin-off enterprises arising from institutional intellectual property and technology. Such affiliated foundations should operate substantially within the framework for affiliated foundations set out in paragraph 1 and 2 of this policy, with such variances as are reasonable based on the nature of the anticipated function of the specific foundation.

- 1) The institutions under the Board's governance may affiliate with non-profit entities which generally meet the criteria set forth in paragraph 2.b. of this policy and which operate for the purpose of supporting the research and technology transfer efforts of one or more of the institutions.

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- 2) Research and Technology Transfer Foundation Operating Agreements. The requirement of a foundation operating agreement under paragraph 2.b. of this policy shall also apply to foundations supporting research and technology transfer. Institutions proposing to affiliate with a particular foundation may propose reasonable variances from specific requirements under paragraph 2.b. based upon the anticipated function of the foundation, provided that any such variances are specifically identified by the institution in materials presented to the Board when requesting approval of the foundation.

3. Foundations for Other Agencies

Other agencies under the Board's jurisdiction may establish foundations to accept gifts made for the benefit of the agencies' operating purposes. These agencies are subject to the same policies as the institutional foundations. However, agency foundations with annual revenues less than \$100,000 are not required to obtain an independent audit. These agencies must instead submit an annual report to the Board of gifts received and the disposition of such gifts.

4. Idaho Public Television Foundation

- a. Foundations that exist for the benefit of Idaho Public Television (IPTV) are required by Federal Communications Commission (FCC) regulations to have specific spending authority designated by the Board. The Friends of IPTV Foundation shall annually engage an independent certified public accountant or audit firm to conduct a full-scope audit of its financial statements in accordance with Generally Accepted Accounting Principles (GAAP) and the Governmental Accounting Standards Board (GASB). No individual employed by or affiliated with the engaged audit firm shall serve as a member or director of the Board of the Friends of IPTV. The annual audit shall be comprehensive and performed in accordance with GAAP standards.
- b. By action of the Board, the Friends of Idaho Public Television, Inc., has been designated to accept gifts made for the benefit of public television in the state of Idaho. The Foundation will conduct its activities in a manner consistent with the Federal Communications Commission (FCC) regulations and the FCC license held by the Board.

5. Acceptance of Direct Gifts

Notwithstanding the Board's desire to encourage the solicitation and acceptance of gifts through affiliated foundations, the Board may accept donations of gifts, legacies, and devises (hereinafter "gifts") of real and personal property on behalf of the state of Idaho that are made directly to the Board or to an institution or agency under its

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governance. Gifts worth more than \$250,000 must be reported to and approved by the executive director of the Board before such gift may be expended or otherwise used by the institution or agency. Gifts worth more than \$500,000 must be approved by the Board. The chief executive officer of any institution or agency is authorized to receive, on behalf of the Board, gifts that do not require prior approval by the executive director or the Board and that are of a routine nature. This provision does not apply to transfers of gifts to an institution or agency from an affiliated foundation (such transfers shall be in accordance with the written operating agreement between the institution or agency and an affiliated foundation, as described more fully herein).

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1. Purpose of the Policy

- a. The Board recognizes the importance of voluntary private support and encourages grants and contributions for the benefit of the institutions and agencies under its governance. Private support for public education is an accepted and firmly established practice throughout the United States. Tax-exempt foundations are one means of providing this valuable support to help the institutions and agencies under the Board's governance raise money through private contributions. Foundations are separate, legal entities, tax-exempt under Section 501(c) of the United States Internal Revenue Code of 1986, as amended, associated with the institutions and agencies under the Board's governance. Foundations are established for the purpose of raising, receiving, holding, and/or using funds from the private sector for charitable, scientific, cultural, educational, athletic, or related endeavors that support, enrich, and improve the institutions or agencies. The Board wishes to encourage a broad base of support from many sources, particularly increased levels of voluntary support. To achieve this goal, the Board will cooperate in every way possible with the work and mission of recognized affiliated foundations
- b. The Board recognizes that foundations:
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 - ii. Provide assurance to donors that their contributions will be received, distributed, and utilized as requested for specified purposes, to the extent legally permissible, and that donor records will be kept confidential to the extent requested by the donor and as allowed by law;
 - iii. Provide an instrument through which alumni and community leaders can help strengthen the institutions and agencies through participation in the solicitation, management, and distribution of private gifts; and
 - iv. Aid and assist the Board in attaining its approved educational, research, public service, student loan and financial assistance, alumni relations, and financial development program objectives.
- c. The Board, aware of the value of tax-exempt foundations to the well being of the institutions and agencies under the Board's governance, adopts this policy with the following objectives:

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- i. To preserve and encourage the operation of recognized foundations associated with the institutions and agencies under the Board's governance; and
- ii. To ensure that the institutions and agencies under the Board's governance work with their respective affiliated foundations to make certain that business is conducted responsibly and according to applicable laws, rules, regulations, and policies, and that such foundations fulfill their obligations to contributors, to those who benefit from their programs, and to the general public.

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- 1) A donor inadvertently directs a contribution to an institution that is intended for the foundation. If an affiliated foundation is the intended recipient of funds made payable to the Board or to an institution, then such funds may be deposited with or transferred to the affiliated foundation, provided that accompanying documents demonstrate that the foundation is the intended recipient. Otherwise, the funds shall be deposited in an institutional account, and Board approval will be required prior to transfer to an affiliated foundation; or
 - 2) The institution has gift funds that were transferred from and originated in an affiliated foundation, and the institution wishes to return a portion of funds to the foundation for reinvestment consistent with the original intent of the gift.
 - 3) The transfer is of a *de minimis* amount not to exceed \$10,000 from the Institution to the Foundation and the transferred funds are for investment by the Foundation for scholarship or other general Institution/Agency support purposes.
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- x. Although foundations are private entities and are not subject to the Idaho Public Records Law, foundations, while protecting personal and private information related to private individuals, are encouraged, to the extent reasonable, to be open to public inquiries related to revenue, expenditure policies, investment performance and/or similar non-personal and non-confidential financial or policy information.
- xi. A foundation's enabling documents (e.g., articles of incorporation and bylaws) and any amendments are to be provided to the institution. These documents must include a clause requiring that in the event of the dissolution of a foundation, its assets and records will be distributed to the Board or the affiliated institution. To the extent practicable, the foundation shall provide the institution with an advance copy of any proposed amendments, additions, or deletions to its articles of incorporation or bylaws. The institution shall be responsible for providing all of the foregoing documents to the Board.
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- 2) Responsibility for the governance of the foundation, including investment of gifts and endowments, resides in the foundation's governing board.

xvi. Institutions shall ensure that foundation controlled resources are not used to acquire or develop real estate or to build facilities for the institution's use without prior Board approval. The institution shall notify the Board, at the earliest possible date, of any proposed purchase of real estate for such purposes, and in such event should ensure that the foundation coordinates its efforts with those of the institution. Such notification to the Board may be through the institution's chief executive officer in executive session pursuant to Idaho Code, Section 74-206(1)(c).

b. Foundation Operating Agreements

Each institution shall enter into a written operating agreement with each of its affiliated foundations that ensures compliance with this Policy.

Board approval of affiliated foundation operating agreements is required if an affiliated foundation will receive donations, membership dues, gifts or other funds (collectively "funds") and delivers those funds directly to the institution. If an affiliated foundation will not receive or maintain funds, or if it routes all funds received to the institution through another Board-approved affiliated foundation, Board approval of the operating agreement is not required. In such cases, the institution shall ensure that services provided by a Board approved affiliated foundation to another affiliated foundation are provided pursuant to a service agreement between the affiliated foundations which complies with Board policy, a copy of which is available to the institution and to the Board.

Operating agreements must be signed by the chairman or president of the foundation's governing board, and by the institution chief executive officer. Operating agreements requiring Board approval must be approved by the Board prior to execution and must be re-submitted to the Board for re-approval every three (3) years, or as otherwise requested by the Board. Operating agreements shall follow the operating agreement template approved by the Board and found at <http://boardofed.idaho.gov/>. When an operating agreement is presented to the Board for review, an institution must include a redline to the Board's operating agreement template, as well as a redline to the previously Board approved version of the operating agreement, if there is one.

Foundation operating agreements shall establish the operating relationship between the parties, and shall, at a minimum, address the following topics:

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- i. Institution Resources and Services.
 - 1) Whether, and how, an institution intends to provide contract administrative and/or support staff services to an affiliated foundation. When it is determined that best practices call for an institution employee to serve in a capacity that serves both the institution and an affiliated foundation, then the operating agreement must clearly define the authority and responsibilities of this position within the foundation. Notwithstanding, no employee of an institution who functions in a key administrative or policy making capacity (including, but not limited to, any institution vice-president or equivalent position) shall be permitted to have responsibility or authority for foundation policy making, financial oversight, spending authority, investment decisions, or the supervision of foundation employees. The responsibility of this position within the foundation that is performed by an institution employee in a key administrative or policy making capacity shall be limited to the coordination of institution and affiliated foundation fundraising efforts, and the provision of administrative support to foundation fundraising activities.
 - 2) Whether, and how, an institution intends to provide other resources and services to an affiliated foundation, which are permitted to include:
 - a) Access to the institution's financial systems to receive, disburse, and account for funds held (with respect to transactions processed through the institution's financial system, the foundation shall comply with the institution's financial and administrative policies and procedures manuals);
 - b) Accounting services, to include cash disbursements and receipts, accounts receivable and payable, bank reconciliation, reporting and analysis, auditing, payroll, and budgeting;
 - c) Investment, management, insurance, benefits administration, and similar services; and
 - d) Development services, encompassing research, information systems, donor records, communications, and special events.
 - 3) Whether the foundation will be permitted to use any of the institution's facilities and/or equipment, and if so, the details of such arrangements.
 - 4) Whether the institution intends to recover its costs incurred for personnel, use of facilities or equipment, or other services provided to the foundation. If so, then payments for such costs shall be made directly to the institution.

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No payments shall be made directly from a foundation to institution employees in connection with resources or services provided to a foundation pursuant to this policy.

ii. Management and Operation of Foundations.

- 1) Guidelines for receiving, depositing, disbursing and accounting for all funds, assets, or liabilities of a foundation, including any disbursements/transfers of funds to an institution from an affiliated foundation. Institution officials into whose department or program foundation funds are transferred shall be informed by the foundation of the restrictions, if any, on such funds and shall be responsible both to account for them in accordance with institution policies and procedures, and to notify the foundation on a timely basis regarding the use of such funds.
- 2) Procedures with respect to foundation expenditures and financial transactions, which must ensure that no person with signature authority shall be an institution employee in a key administrative or policy making capacity (including, but not limited to, an institution vice-president or equivalent position).
- 3) The liability insurance coverage the foundation will have in effect to cover its operations and the activities of its directors, officers, and employees.
- 4) Description of the investment policies to be utilized by the foundation, which shall be conducted in accordance with prudent, sound practice to ensure that gift assets are protected and enhanced, and that a reasonable return is achieved, with due regard for the fiduciary responsibilities of the foundation's governing board. Moreover, such investments must be consistent with the terms of the gift instrument.
- 5) Procedures that will be utilized to ensure that institution and foundation funds are kept separate.
- 6) Detailed description of the organization structure of the foundation, which addresses conflict of interest in management of funds and any foundation data.

iii. Foundation Relationships with the Institutions

- 1) The institution's ability to access foundation books and records.
- 2) The process by which the institution chief executive officer, or designee, shall interact with the foundation's board regarding the proposed annual

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operating budget and capital expenditure plan prior to approval by the foundation's governing board.

- 3) Whether, and how, supplemental compensation from the foundation may be made to institutional employees. Any such payments must have prior Board approval, and shall be paid by the foundations to the institutions, which in turn will make payments to the employee in accordance with normal practice. Employees shall not receive any payments or other benefits directly from the foundations.

iv. Audits and Reporting Requirements.

- 1) The procedure foundations will utilize for ensuring that regular audits are conducted and reported to the Board. Unless provided for otherwise in the written operating agreement, such audits must be conducted by an independent certified public accountant, who is not a director or officer of the foundation. The independent audit shall be a full scope audit, performed in accordance with generally accepted auditing standards.
- 2) The procedure foundations will use for reporting to the institution chief executive officer the following items:
 - a) Regular financial audit report;
 - b) Annual report of transfers made to the institution, summarized by department;
 - c) Annual report of unrestricted funds received, and of unrestricted funds available for use in that fiscal year;
 - d) A list of foundation officers, directors, and employees;
 - e) A list of institution employees for whom the foundation made payments to the institution for supplemental compensation or any other approved purpose during the fiscal year, and the amount and nature of that payment;
 - f) A list of all state and federal contracts and grants managed by the foundation; and
 - g) An annual report of the foundation's major activities;

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- h) An annual report of each real estate purchase or material capital lease, investment, or financing arrangement entered into during the preceding foundation fiscal year for the benefit of the institution; and
- i) An annual report of any actual litigation involving the foundation during its fiscal year, as well as legal counsel used by the foundation for any purpose during such year. This report should also discuss any potential or threatened litigation involving the foundation.

v. Conflict of Interest and Code of Ethics and Conduct.

A description of the foundation's conflict of interest policy approved by the foundation's governing board and applicable to all foundation directors, officers, and staff members, and which shall also include a code of ethics and conduct. Such policy must assure that transactions involving the foundation and the personal or business affairs of a trustee, director, officer, or staff member should be approved in advance by the foundation's governing board. In addition, such policy must provide that directors, officers, and staff members of a foundation disqualify themselves from making, participating, or influencing a decision in which they have or would have a financial interest. Finally, such policy must assure that no director, trustee, officer, or staff member of a foundation shall accept from any source any material gift or gratuity in excess of fifty dollars (\$50.00) that is offered, or reasonably appears to be offered, because of the position held with the foundation; nor should an offer of a prohibited gift or gratuity be extended by such an individual on a similar basis.

vi. Affiliated Research Foundations and Technology Transfer Organization for Institutions of Higher Education

The Board wishes to encourage research and technology transfer and the corresponding economic development potential for the state of Idaho. The Board acknowledges that independent, affiliated foundations operating to support an institution's research and technology transfer efforts can be useful tools to provide institutions with avenues for engagement with the private sector as well as with public and private entities interested in funding research, funding technology transfer and promoting spin-off enterprises arising from institutional intellectual property and technology. Such affiliated foundations should operate substantially within the framework for affiliated foundations set out in paragraph 1 and 2 of this policy, with such variances as are reasonable based on the nature of the anticipated function of the specific foundation.

- 1) The institutions under the Board's governance may affiliate with non-profit entities which generally meet the criteria set forth in paragraph 2.b. of this

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policy and which operate for the purpose of supporting the research and technology transfer efforts of one or more of the institutions.

- 2) Research and Technology Transfer Foundation Operating Agreements. The requirement of a foundation operating agreement under paragraph 2.b. of this policy shall also apply to foundations supporting research and technology transfer. Institutions proposing to affiliate with a particular foundation may propose reasonable variances from specific requirements under paragraph 2.b. based upon the anticipated function of the foundation, provided that any such variances are specifically identified by the institution in materials presented to the Board when requesting approval of the foundation.

3. Foundations for Other Agencies

Other agencies under the Board's jurisdiction may establish foundations to accept gifts made for the benefit of the agencies' operating purposes. These agencies are subject to the same policies as the institutional foundations. However, agency foundations with annual revenues less than \$100,000 are not required to obtain an independent audit. These agencies must instead submit an annual report to the Board of gifts received and the disposition of such gifts.

4. Idaho Public Television Foundation

- a. Foundations that exist for the benefit of Idaho Public Television (IPTV) are required by Federal Communications Commission (FCC) regulations to have specific spending authority designated by the Board. ~~Audits of the IPTV Foundation will be conducted by the State Legislative Auditor.~~ The Friends of IPTV Foundation shall annually engage an independent certified public accountant or audit firm to conduct a full-scope audit of its financial statements in accordance with Generally Accepted Accounting Principles (GAAP) and the Governmental Accounting Standards Board (GASB). No individual employed by or affiliated with the engaged audit firm shall serve as a member or director of the Board of the Friends of IPTV. The annual audit shall be comprehensive and performed in accordance with GAAP standards.
- b. By action of the Board, the Friends of Idaho Public Television, Inc., has been designated to accept gifts made for the benefit of public television in the state of Idaho. The Foundation will conduct its activities in a manner consistent with the Federal Communications Commission (FCC) regulations and the FCC license held by the Board.

5. Acceptance of Direct Gifts

Notwithstanding the Board's desire to encourage the solicitation and acceptance of gifts through affiliated foundations, the Board may accept donations of gifts, legacies, and devises (hereinafter "gifts") of real and personal property on behalf of the state of Idaho that are made directly to the Board or to an institution or agency under its

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governance. Gifts worth more than \$250,000 must be reported to and approved by the executive director of the Board before such gift may be expended or otherwise used by the institution or agency. Gifts worth more than \$500,000 must be approved

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by the Board. The chief executive officer of any institution or agency is authorized to receive, on behalf of the Board, gifts that do not require prior approval by the executive director or the Board and that are of a routine nature. This provision does not apply to transfers of gifts to an institution or agency from an affiliated foundation (such transfers shall be in accordance with the written operating agreement between the institution or agency and an affiliated foundation, as described more fully herein).

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SUBJECT

Idaho State Board of Education (Board) Policy Section V.K. Construction Projects
– First Reading

REFERENCE

April 2014	Board approved first reading of proposed amendments to policy V.K.
June 2014	Board approved second reading of proposed amendments to policy V.K.
June 2015	Board approved first reading of proposed amendments to policy V.K.
August 2015	Board approved second reading of proposed amendments to policy V.K.
August 2023	Board approved first reading of proposed amendments to policy V.K.
October 2023	Board approved second reading of proposed amendments to policy V.K.

APPLICABLE STATUTE, RULE, OR POLICY

Idaho State Board of Education Governing Policies & Procedures, Section V.K

BACKGROUND/DISCUSSION

At the October 2025 BAHHR Committee meeting, members requested that Board staff review and clarify Policy V.K. – Construction Projects, particularly the sequencing in Section 3.a related to planning and design. The current policy requires institutions to submit a preliminary project budget and financing plan before issuing a Request for Qualifications (RFQ) for design professionals. Members of the BAHHR Committee expressed concern that this sequencing can inadvertently inflate project bids, increase administrative delay, and limit flexibility in early project planning.

The proposed revisions to Policy V.K. address these issues by:

1. Clarifying that institutions should issue an RFQ solely to identify qualified design professionals before Board approval of a project budget or financing plan, provided no contracts are executed and no expenditures occur prior to formal Board approval.
2. Adding explicit language prohibiting institutions from executing design contracts or initiating any design work until the Board has approved the project's planning and design phase.
3. Requiring institutions to submit a preliminary project scope identifying the project need, anticipated funding sources, and an estimated cost range when requesting planning and design approval.
4. Clarifying sequencing and allowing certain approvals to be sought concurrently, including when planning/design approval may accompany requests for construction authorization or budget/financing approval.

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5. Aligning procedures for design-build project delivery, including explicit requirements for Board approval before issuing design-build solicitations.
6. Strengthening fiscal revision requirements, including more clearly defined reporting obligations when project costs exceed previously approved amounts or when scope changes occur.
7. Improving consistency, terminology, and readability throughout Policy V.K., including authorization limits, project planning, design-build processes, and master planning requirements.

These updates ensure institutions can follow standard architectural procurement practices while maintaining strong Board oversight of project scope, costs, and financing.

IMPACT

The proposed amendments streamline the approval process for capital construction projects by better aligning procedural steps with standard design and procurement practices. This change reduces administrative delays, improves cost accuracy, and mitigates the potential for inflated bids while preserving Board oversight of project budgets and financing plans. The revisions are expected to improve efficiency and transparency without reducing fiscal or procedural accountability for institutions and agencies under Board governance.

The amendments also clarify that no design contracts may be executed or design work initiated until the Board formally approves the planning and design phase. Institutions must provide a preliminary project scope including project need, anticipated funding sources, and an estimated cost range, when requesting planning/design approval. The revisions further clarify when approvals may be sought concurrently, outline procedural expectations for design-build delivery methods, and refine requirements for reporting fiscal revisions to previously approved projects.

ATTACHMENTS

- Attachment 1 – Proposed Policy Amendments to V.K. Construction Projects – Redline Version
- Attachment 2 – Proposed Policy Amendments to V.K. Construction Projects – Clean Version

STAFF COMMENTS AND RECOMMENDATIONS

Board staff have reviewed the proposed amendments in collaboration with institutions to ensure alignment with state procurement rules, state statutes, the Department of Public Works (DPW) policies and best practices in capital project management. The changes address institutional concerns raised in recent meetings, clarify procedural sequencing, and maintain appropriate levels of Board control and reporting.

Staff recommends approval.

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BOARD ACTION

I move to approve the first reading of proposed amendments to Policy V.K.-
Construction Projects, as provided in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

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1. Authorization Limits

Before any institution or agency under the governance of the Board begins to make capital improvements, either in the form of alteration and repair to existing facilities or construction of new facilities, it must be authorized based on the limits listed below. "Alteration" means a limited construction project for an existing facility that comprises the modification or replacement of one or a number of existing building systems or components. "Repair" means work that corrects deterioration or damage to a facility or to existing building systems or components in order to restore it to its condition prior to the deterioration or damage.

Projects requiring executive director or Board approval must include a project budget detailing the estimated project costs, including costs for architects, engineers, and construction managers and engineering services. Alteration and repair projects funded entirely by an appropriation through the permanent building fund are approved through the Board's annual approval of an institution's or agency's operating budget and do not require separate approval under this policy, except as may be required under Paragraph 5.

For purposes of selecting professional design services, institutions shall issue a Request for Qualifications (RFQ) prior to submission of a formal project budget under this policy, provided that no contractual commitment or expenditure occurs until required approvals are obtained under Section 3.

Project Originally Authorized By	Original Project Cost	Cumulative Value of Change(s)	Aggregate Revised Project Cost	Change Authorized By
Local Agency	< \$1 million	Any	< \$1 million	Local Agency
Local Agency	< \$1 million	Any	\$1 – 2 million	Executive Director
Local Agency	<\$1 million	Any	> \$2 million	SBOE
Executive Director	\$1 -\$2 million	<= \$1 million	<= \$2 million	Local Agency
Executive Director	\$1 – 2 million	Any	>\$2 million	SBOE
SBOE	> \$2 million	<\$1 million	Any	Local Agency
SBOE	> \$2 million ,	\$1-\$2 million	Any	Executive Director
SBOE	> \$2 million	>\$2 million	Any	SBOE

2. Major Projects - Capital Construction Plans

- a. Institutions and agencies under the governance of the Board wishing to undertake construction projects involving construction of new facilities or significant, long-term renewal improvements to existing facilities shall submit annually to the Board for its approval a six-year capital construction plan (the "Plan"). The Plan shall

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span six fiscal years going forward starting at the fiscal year next. The Plan shall include only capital construction projects for which the total cost is estimated to exceed two million dollars (\$2,000,000) ("Major Projects"), without regard to the source of funding. Alteration and repair to existing facilities are not required to be included on the Plan but such projects shall be reported to the Board when undertaken. Inclusion on the Plan shall constitute notice to the Board that an institution or agency may bring a request at a later date for Board approval of one or more of the projects included in its approved Plan. Board approval of a Plan shall not constitute approval of a project included in the Plan.

b. If a Major Project is not included in a Plan and an institution or agency under the governance of the Board desires to obtain approval of the Major Project, before seeking approval, it shall first bring an amended Plan to the Board for approval at a regularly scheduled meeting of the Board. If a potential donor offers an unsolicited gift to an institution or its affiliated foundation in support of a Major Project which is not in an institution's or agency's Plan, prior to acceptance of the gift, the institution or agency shall notify the Board's executive director in writing of the offer, which notice shall include a detailed statement of purpose and fiscal impact, and a summary of the terms and conditions of the gift. This notice shall also certify to the executive director that the donor understands and acknowledges that construction of the Major Project is subject to the review and approval of the Board.

3. Major Projects Approval Process - Design-Bid-Build Projects

a. Planning and Design

Institutions and agencies under the governance of the Board shall issue a Request for Qualifications (RFQ) for professional design services on a Major Project prior to obtaining formal Board approval for the planning and design phase, for the limited purpose of selecting qualified architects, engineers, or design teams. Institutions and agencies may seek Board approvals for planning and design or construction prior to the completion of the RFQ process.

No contract for design services may be executed, and no planning or design work may commence, until the Board has granted approval of the project's planning and design phase.

As part of the request for Board approval of the planning and design phase, the institution or agency shall provide a preliminary scope identifying the project need, anticipating funding sources and an estimated project cost range. The Board's approval shall include the authorization of the project budget and financing plan as described in subsection (b).

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b. Project Budget and Financing Plan

Board approval of a project budget and financing plan (including pro forma financials, debt/operating expenses ratios, pledges, strategic facilities fees, and other material financial information) is required for a design-bid-build Major Project. This approval may be requested only after approval of the design and planning process and may be requested concurrently with approval for construction.

c. Construction

Board approval is required to proceed with the construction of a Major Project. In order to obtain Board approval for construction of a Major Project, the Board must approve the project budget and financing plan. Construction approval may be requested concurrently with approval of the project's budget and financing plan.

d. Financing and Incurrence of Debt

Board approval for the financing of Major Projects via the issuance of bonds, or incurrence of any other indebtedness, is required pursuant to Board policy V.F. This approval may be requested concurrently with approval of the project's budget and financing plan and construction approval.

4. Major Projects Approval Process - Design-Build Projects

Although design--build projects are performed by one team, design-build contracts can also allow a series of options to proceed (or not) after completion of the design phase and before construction. For design-build Major Projects, Board approval shall be required prior to issuance of a design-build solicitation, including approval to utilize the design-build method. The approval process for major projects using a design-build contract shall be the same as the approval process required for a design-bid-build contract. For purposes of such approval, a preliminary project budget and financing plan shall be submitted. No additional approval shall be required unless the preliminary budget and financing plan is exceeded. Approval of debt issuance as part of the financing plan is required as provided in Policy V.F. An institution may seek approval from the permanent building fund advisory council for use of design-build delivery method prior to or following Board approval, as long as both agencies approve, if required, prior to issuance of a bid.

5. Fiscal Revisions to Previously Approved Projects

If a project budget increases above the total Board or executive director-authorized amount by 5% or more, then the institution or agency shall be required to seek further authorization based on the limits established in paragraph 1, above. Regardless of the authorization level required, the institution shall provide the Board with the amount and reason(s) for the cost overruns and the source of funds.

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6. Project Acceptance

Projects under the supervision of the Department of Administration are accepted by the Department on behalf of the Board and the State of Idaho and all contracts and acquisition of goods and services are acquired through the Department of Administration as applicable. Projects conducted through the Department of Administration shall not require approval other than as required under this Policy V.K. Projects under the supervision of an institution or agency are accepted on behalf of the Board and the State of Idaho by the institution or agency and the project architect. Projects under the supervision of the University of Idaho are accepted by the University on behalf of the Board of Regents.

7. Statute and Code Compliance

- a. All projects must be in compliance with Section 504 of the Rehabilitation Act of 1973 and must provide access to all persons. All projects must be in compliance with applicable state and local building and life-safety codes as provided in Chapter 41, Title 39, and applicable local land-use regulations as provided in Section 67- 6528, Idaho Code.
- b. In designing and implementing construction projects, due consideration must be given to energy conservation and long-term maintenance and operation savings versus short-term capital costs.

8. Campus Master Plans

Each institution shall develop a seven (7) to fifteen (15) year Campus Master Plan (CMP). The CMP shall serve as a planning framework to guide the orderly and strategic growth and physical development of an institution's campus. The CMP shall be consistent with and support the institution's current mission, core themes, strategic plan, and six-year capital construction plan. The CMP and substantive updates thereto must be approved by the Board.

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1. Authorization Limits

Before any institution or agency under the governance of the Board begins to make capital improvements, either in the form of alteration and repair to existing facilities or construction of new facilities, it must be authorized based on the limits listed below. "Alteration" means a limited construction project for an existing facility that comprises the modification or replacement of one or a number of existing building systems or components. "Repair" means work that corrects deterioration or damage to a facility or to existing building systems or components in order to restore it to its condition prior to the deterioration or damage.

Projects requiring executive director or Board approval must include a project budget detailing the estimated project costs, including costs for architects, engineers, and construction managers and engineering services. Alteration and repair projects funded entirely by an appropriation through the permanent building fund are approved through the Board's annual approval of an institution's or agency's operating budget and do not require separate approval under this policy, except as may be required under Paragraph 5.

For purposes of selecting professional design services, institutions shall issue a Request for Qualifications (RFQ) prior to submission of a formal project budget under this policy, provided that no contractual commitment or expenditure occurs until required approvals are obtained under Section 3.

Project Originally Authorized By	Original Project Cost	Cumulative Value of Change(s)	Aggregate Revised Project Cost	Change Authorized By
Local Agency	< \$1 million	Any	< \$1 million	Local Agency
Local Agency	< \$1 million	Any	\$1 – 2 million	Executive Director
Local Agency	<\$1 million	Any	> \$2 million	SBOE
Executive Director	\$1 - \$2 million	<= \$1 million	<= \$2 million	Local Agency
Executive Director	\$1 – 2 million	Any	>\$2 million	SBOE
SBOE	> \$2 million	<\$1 million	Any	Local Agency
SBOE	> \$2 million ,	\$1-\$2 million	Any	Executive Director
SBOE	> \$2 million	>\$2 million	Any	SBOE

2. Major Projects - Capital Construction Plans

- a. Institutions and agencies under the governance of the Board wishing to undertake construction projects involving construction of new facilities or significant, long-term renewal improvements to existing facilities shall submit annually to the Board for its approval a six-year capital construction plan (the "Plan"). The Plan shall

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span six fiscal years going forward starting at the fiscal year next. The Plan shall include only capital construction projects for which the total cost is estimated to exceed two million dollars (\$2,000,000) ("Major Projects"), without regard to the source of funding. Alteration and repair to existing facilities are not required to be included on the Plan but such projects shall be reported to the Board when undertaken. Inclusion on the Plan shall constitute notice to the Board that an institution or agency may bring a request at a later date for Board approval of one or more of the projects included in its approved Plan. Board approval of a Plan shall not constitute approval of a project included in the Plan.

b. If a Major Project is not included in a Plan and an institution or agency under the governance of the Board desires to obtain approval of the Major Project, before seeking approval, it shall first bring an amended Plan to the Board for approval at a regularly scheduled meeting of the Board. If a potential donor offers an unsolicited gift to an institution or its affiliated foundation in support of a Major Project which is not in an institution's or agency's Plan, prior to acceptance of the gift, the institution or agency shall notify the Board's executive director in writing of the offer, which notice shall include a detailed statement of purpose and fiscal impact, and a summary of the terms and conditions of the gift. This notice shall also certify to the executive director that the donor understands and acknowledges that construction of the Major Project is subject to the review and approval of the Board.

3. Major Projects Approval Process - Design-Bid-Build Projects

a. Planning and Design

~~Board approval is required before any institution or agency begins planning and design on a Major Project carried out under the traditional "design-bid-build" method. For design-bid-build projects, planning and design encompasses the preparation of architectural and engineering documents and associated budget and schedule information through the completion of the construction documents for bidding. As part of the Board's approval process for planning and design, the institution or agency may submit a preliminary project budget and financing plan (including pro forma financials, debt/operating expenses ratios, pledges, strategic facilities fees, and other material financial information).~~

Institutions and agencies under the governance of the Board shall issue a Request for Qualifications (RFQ) for professional design services on a Major Project prior to obtaining formal Board approval for the planning and design phase, for the limited purpose of selecting qualified architects, engineers, or design teams. Institutions and agencies may seek Board approvals for planning and design or construction prior to the completion of the RFQ process.

No contract for design services may be executed, and no planning or design work

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may commence, until the Board has granted approval of the project's planning and design phase.

As part of the request for Board approval of the planning and design phase, the institution or agency shall provide a preliminary scope identifying the project need, anticipating funding sources and an estimated project cost range. The Board's approval shall include the authorization of the project budget and financing plan as described in subsection (b).

b. Project Budget and Financing Plan

Board approval of a project budget and financing plan (including pro forma financials, debt/operating expenses ratios, pledges, strategic facilities fees, and other material financial information) is required for a design-bid-build Major Project. This approval may be requested only after ~~completion~~ approval of the design and planning process ~~but~~ and may be requested concurrently with approval for construction.

c. Construction

Board approval is required to proceed with the construction of a Major Project. In order to obtain Board approval for construction of a Major Project, the Board must approve the project budget and financing plan. Construction approval may be requested concurrently with approval of the project's budget and financing plan.

d. Financing and Incurrence of Debt

Board approval for the financing of Major Projects via the issuance of bonds, or incurrence of any other indebtedness, is required pursuant to Board policy V.F. This approval may be requested concurrently with approval of the project's budget and financing plan and construction approval.

4. Major Projects Approval Process - Design-Build Projects

Although design-build projects are performed by one team, design-build contracts can also allow a series of options to proceed (or not) after completion of the design phase and before construction. For design-build Major Projects, Board approval shall be required prior to issuance of a design-build solicitation, including approval to utilize the design-build method. The approval process for major projects using a design-build contract shall be the same as the approval process required for a design-bid-build contract. For purposes of such approval, a preliminary project budget and financing plan shall be submitted. No additional approval shall be required unless the preliminary budget and financing plan is exceeded. Approval of debt issuance as part of the financing plan is required as provided in Policy V.F. An institution may seek approval from the permanent building fund advisory council for use of design-build delivery method prior to or following Board approval, as long as both agencies approve, if required, prior to issuance of a bid.

Idaho State Board of Education

GOVERNING POLICIES AND PROCEDURES

SECTION: V. FINANCIAL AFFAIRS

SUBSECTION: K. Construction Projects

~~October 2023~~ December 2025

5. Fiscal Revisions to Previously Approved Projects

If a project budget increases above the total Board or executive director-authorized amount by 5% or more, then the institution or agency shall be required to seek further authorization based on the limits established in paragraph 1, above. Regardless of the authorization level required, the institution shall provide the Board with the amount and reason(s) for the cost overruns and the source of funds.

6. Project Acceptance

Projects under the supervision of the Department of Administration are accepted by the Department on behalf of the Board and the State of Idaho and all contracts and acquisition of goods and services are acquired through the Department of Administration as applicable. Projects conducted through the Department of Administration shall not require approval other than as required under this Policy V.K. Projects under the supervision of an institution or agency are accepted on behalf of the Board and the State of Idaho by the institution or agency and the project architect. Projects under the supervision of the University of Idaho are accepted by the University on behalf of the Board of Regents.

7. Statute and Code Compliance

- a. All projects must be in compliance with Section 504 of the Rehabilitation Act of 1973 and must provide access to all persons. All projects must be in compliance with applicable state and local building and life-safety codes as provided in Chapter 41, Title 39, and applicable local land-use regulations as provided in Section 67- 6528, Idaho Code.
- b. In designing and implementing construction projects, due consideration must be given to energy conservation and long-term maintenance and operation savings versus short-term capital costs.

8. Campus Master Plans

Each institution shall develop a seven (7) to fifteen (15) year Campus Master Plan (CMP). The CMP shall serve as a planning framework to guide the orderly and strategic growth and physical development of an institution's campus. The CMP shall be consistent with and support the institution's current mission, core themes, strategic plan, and six-year capital construction plan. The CMP and substantive updates thereto must be approved by the Board.

**BUSINESS AFFAIRS AND HUMAN RESOURCES
NOVEMBER 20, 2025**

IDAHO PUBLIC TELEVISION

SUBJECT

Update to Operating Agreement Between Idaho Public Television and Friends of Idaho Public Television, Inc. – Audit Procedure

REFERENCE:

April 2022 Board approved updated Idaho Public Television and Friends of Idaho Public Television, Inc. Operating Agreement

APPLICABLE STATUTE, RULE, OR POLICY

Idaho State Board of Education Governing Policies & Procedures, Section V.E.

BACKGROUND/DISCUSSION

On October 6, 2025, the Legislative Services Office (LSO) informed Idaho Public Television (IPTV) that it does not have statutory authority to audit the Friends of Idaho Public Television (Friends), a 501(c)(3) nonprofit organization, as a separate legal entity. LSO's statutory authority extends only to audits of state entities established by the Legislature.

Historically, both IPTV and the Friends organization were audited annually by the State Legislative Auditor in order to meet Corporation for Public Broadcasting (CPB) requirements. Since CPB's dissolution, IPTV is now audited on a three-year cycle. However, the Friends organization must continue to complete an annual independent audit to maintain compliance with IRS and financial accountability standards.

The current Operating Agreement between Idaho Public Television, an entity under the Idaho State Board of Education, and the Friends of Idaho Public Television, Inc., specifies that the Friends must utilize the "State Legislative Auditor" for its annual audit. Because LSO cannot legally perform this function, an update to the Operating Agreement is necessary to ensure compliance with state law and continuity of proper financial oversight.

To meet IRS deadlines for filing the Friends' Form 990 by May 2026, IPTV requested from OSBE to engage an independent certified public accounting firm in November 2025. Due to the time sensitive nature of this request, OSBE CFO received approval from the BAHHR Committee Chair for IPTV to proceed on October 28, 2025. This approval was necessary as by the time the request reached the Board for full approval, the audit process would potentially not be completed by the May 2026 deadline.

To align the Operating Agreement with this change, it is proposed that Article V – Audits and Reporting, Section A – Procedure for Conducting Audits be revised as follows:

BUSINESS AFFAIRS AND HUMAN RESOURCES
NOVEMBER 20, 2025

Existing Language: "The Friends of IPTV shall annually conduct an audit consistent with GAAP and GASB requirements through the services of the State Legislative Auditor. No individual designated by the State Legislative Auditor shall be a member of the board of the Friends of IPTV. The annual audit shall be a full scope audit, performed in accordance with GAAP."

Proposed Revision: "The Friends of IPTV shall annually engage an independent certified public accountant or audit firm to conduct a full-scope audit of its financial statements in accordance with Generally Accepted Accounting Principles (GAAP) and the Governmental Accounting Standards Board (GASB). No individual employed by or affiliated with the engaged audit firm shall serve as a member or director of the Board of the Friends of IPTV. The annual audit shall be comprehensive and performed in accordance with GAAP standards."

Board Policy V.E. also requires both IPTV and the IPTV Foundation (Friends) to be audited by "State Legislative Auditor." Since the earliest a policy amendment can be finalized is at the Board's December meeting, it is necessary to waive Board Policy V.E. if the Board intends to approve the revised Operating Agreement.

IMPACT

Waiving Board Policy V.E. will allow the Board to consider approval of the revised Operating Agreement. The waiver is only necessary until the Board approves revision of Policy V.E. to address the present misalignment.

Approval of the revision to the Operating Agreement will result in updates to reflect current legal authority and operational practice and ensure annual audits of the Friends organization remain compliant with state law and consistent with accepted accounting standards. This change maintains financial transparency and supports timely submission of required IRS filings.

ATTACHMENTS

Attachment 1 – Proposed Amendments to Operating Agreement (Article V – Audits and Reporting, Section A) – Clean Version

Attachment 2 – Proposed Amendments to Operating Agreement (Article V – Audits and Reporting, Section A) – Redline Version

STAFF COMMENTS AND RECOMMENDATIONS

This is an administrative update to bring the Operating Agreement into compliance with statutory audit authority and federal reporting timelines. The revision preserves the intent of the original agreement while modernizing language to reflect current auditing procedures.

Board staff recommends approval.

**BUSINESS AFFAIRS AND HUMAN RESOURCES
NOVEMBER 20, 2025**

BOARD ACTION

I move to waive the requirement for Idaho Public Television's foundation, Friends of Idaho Public Television, Inc., to use the State Legislative Auditor for audits, as outlined in Board Policy V.E. subsection 4.a.. This waiver shall be in effect until the Board approves an appropriate policy revision.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

I move to approve the proposed revision of the Operating Agreement between Idaho Public Television and the Friends of Idaho Public Television, Inc., as provided in Attachment 1, and to authorize the General Manager of Idaho Public Television to execute the updated agreement on behalf of the Board.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

**OPERATING AGREEMENT BETWEEN THE FRIENDS OF IDAHO
PUBLIC TELEVISION, INC.**

AND

**IDAHO PUBLIC TELEVISION, AN ENTITY OF THE STATE BOARD OF
EDUCATION OF THE STATE OF IDAHO**



Boise • Ketchum • Pocatello • Reno
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Edited from original

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OPERATING AGREEMENT

ARTICLE I PURPOSE

The Idaho State Board of Education ("SBOE"), acting pursuant to its constitutional authority and authority otherwise delegated by the State of Idaho has adopted policies regarding gifts to public entities and affiliated foundations with the express objective of preserving and encouraging the operation of recognized foundations associated with the institutions, schools and entities under the Board's governance. Idaho Public Television ("IPTV") is one such entity under the SBOE's governance. The Friends of Idaho Public Television, Inc. ("Friends of IPTV") maintains an endowment and operating funds, hereby referred to as "Endowment" affiliated with IPTV, and otherwise enjoys an ongoing working relationship with IPTV intended to enhance and promote the mission of IPTV in the state of Idaho and throughout its service area. IPTV and the Friends of IPTV adopt this Operating Agreement (the "Agreement") with the intent of complying with the SBOE policies regarding gifts and affiliated foundations and support groups in a manner consistent with State and Federal law and regulations, including applicable Federal Communications Commission ("FCC") regulations.

ARTICLE II INSTITUTIONAL RESOURCES AND SERVICES

A. Administrative and Staff Support

IPTV shall provide to the Friends of IPTV support staff and administrative services for the general purpose of facilitating the organization and conduct of regular and special board and committee meetings, including administrative support for the preparation of agendas, gathering and distribution of materials in advance of such meetings, minute keeping and organization for such meetings and logistical support including the organization of travel arrangements and accommodations when required. All out of pocket costs for such administrative services shall be borne by the Friends of IPTV, which shall either pay these items directly or reimburse IPTV upon presentation of receipt therefor.

1. Specific Administrative Support Designations

IPTV will provide the specific administrative and support staff services by the employees in the capacities detailed on Schedule I to this Agreement.

2. Restriction on IPTV Responsibility

No employee of IPTV in a key administrative or policy making capacity (including but not limited to the General Manager of IPTV) shall be permitted to have responsibility or authority for Friends of IPTV policy making, financial oversight, spending authority, or investment decisions unless specifically approved in writing by the Friends of IPTV and the Audit Committee of the State Board of Education. The Friends of IPTV maintains no employees.

3. Limitation on Functions of General Manager with Respect to the Friends of IPTV

Unless specifically agreed in writing by the Friends of IPTV and the Audit Committee of the State Board of Education, the responsibilities of any function performed by the General Manager of IPTV with respect to the Friends of IPTV or by any IPTV employee relating to a key administrative or policy making capacity shall be limited to the coordination of institution and affiliated endowment fundraising efforts, and the provision of administrative support to endowment fundraising activities.

B. Other Institution Resources and Services

IPTV will provide the Friends of IPTV with the following resources and services through the employees in the capacities identified in Article II.A.1 including the following:

- i. Access via reporting functions to IPTV's financial systems to receive, disburse, and account for funds held (with respect to transactions processed through IPTV's financial system, the Friends of IPTV shall comply with the institution's financial and administrative policies and procedures manuals);

ii. Accounting services, to include cash disbursements and receipts, accounts receivable and payable, bank reconciliation, reporting and analysis, auditing, payroll, and budgeting; iii. Investment, management, insurance, benefits administration, and similar services; iv. Development services, encompassing research, information systems, donor records, communications, and special events.

C. Use of Facilities and Equipment

IPTV will provide the Friends of IPTV meeting rooms and other logistical support for the conduct of regular and special meetings of the Friends of IPTV board and committees, including the use of telecommunications equipment such as video microwave interconnect and teleconferencing facilities.

D. Terms for Institution Cost Recovery

Except as provided herein, IPTV does not intend to recover from the Friends of IPTV any costs associated with the provision of personnel, use of facilities or equipment. All personnel, facilities and equipment provided by third parties at an expense to IPTV will be billed to the Friends of IPTV for reimbursement. No payments shall be made directly from the Friends of IPTV directly to IPTV employees in connection with resources or services provided pursuant to this Agreement.

ARTICLE III OPERATION OF ENDOWMENT

A. The Friends of IPTV Endowment

The Friends of IPTV maintains an endowment fund (the "IPTV Endowment") recognized by the Internal Revenue Service as a tax-exempt entity pursuant to section 501(c)(3) of the Internal Revenue Code. All operations of the Friends of IPTV regarding its IPTV Endowment shall comply with the SBOE's general guidelines for foundations found at SBOE Policies and Procedures Section V.E.2.b. as adopted effective July 1, 2008.

B. Guidelines for Receiving, Depositing, Disbursing and Accounting for All Funds, Assets, or Liabilities of the Endowment

The Friends of IPTV maintains guidelines for the IPTV Endowment regarding the receipt, deposit, disbursement and accounting for all fund assets and liabilities consistent with generally accepted accounting principles (GAAP) and the Governmental Accounting Standards Board (GASB). These policies provide that when endowment funds are transferred to IPTV, institution officials into whose department or program endowment funds are transferred shall be informed by the Friends of IPTV of the restrictions, if any, on such funds and shall be responsible both to account for them in accordance with institution policies and procedures, Federal Communications Commission regulations and requirements, and to notify the Friends of IPTV on a timely basis regarding the use of such funds.

C. Procedures for IPTV Endowment Expenditures and Financial Transactions

The Friends of IPTV will comply with its written procedures described in Schedule II hereto for all expenditures and financial transactions with IPTV, including the disbursement or disposition of any endowment funds. Except as specifically agreed in writing by the Friends of IPTV, no person with signature authority shall be an IPTV employee in a key administrative or policy making capacity (including, but not limited to, the General Manager or an institution vice president or equivalent position).

D. Liability Insurance Coverage

The Friends of IPTV maintains comprehensive general liability insurance including D&O coverage for the acts and omissions of its Board members, officers and employees as described in the policy attached as Schedule III.

E. Endowment Investment Policies

The Friends of IPTV maintains a written Endowment Fund Statement of Investment Policy and Fiduciary Management, which is revised from time to time at the direction of the Friends of IPTV board and its

standing endowment committee. The current investment policy is attached as Schedule IV. All investment policies adopted by the Friends of IPTV board and endowment committee are designed to and shall be conducted in accordance with prudent, sound practice to ensure that gift assets are protected and enhanced, and that a reasonable return is achieved, with due regard for the fiduciary responsibilities of the Friends of IPTV board. Moreover, all such investments are and must be consistent with the terms of the gift instrument.

F. Separation of Funds

At no time shall the funds of the IPTV Endowment and IPTV be commingled but to the contrary shall at all times be kept separate in accounts reflecting the ownership of the respective entities.

G. Organizational Structure of the Friends of IPTV

The Friends of IPTV, Inc. is a corporation duly organized and validly existing under the nonprofit corporation act of the State of Idaho. Copies of the Articles of Incorporation and Bylaws of the Friends of IPTV, Inc., are attached hereto as Schedule V.

ARTICLE IV IPTV ENDOWMENT RELATIONSHIPS WITH IPTV

At all times the relationship between the Friends of IPTV and IPTV shall be arms-length and conducted with recognition of the fiduciary duties of the Friends of IPTV to its constituents, and of the IPTV Endowment with regard to State, Federal and FCC laws and regulations.

A. Access to Friends of IPTV Endowment Books and Records

IPTV may access the endowment books and records of the Friends of IPTV solely for the purpose of carrying out the administrative assistance described in Article II.A.1 of this Agreement.

B. IPTV Input to Friends of IPTV Endowment Payout Operating Budget and Capital Expenditures

The General Manager of IPTV, or other institution chief executive officer or designee, shall provide recommendations to the Friends of IPTV board for the proposed expenditures from the endowment payout prior to their approval by the Friends of IPTV board. In no event shall these recommendations be deemed binding or controlling on the actions of the Friends of IPTV board.

C. Supplemental Compensation to Employees of IPTV

The Friends of IPTV shall make no supplemental compensation to any employee of IPTV.

ARTICLE V AUDITS AND REPORTING

A. Procedure for Conducting Audits

The Friends of IPTV shall annually engage an independent certified public accountant or audit firm to conduct a full-scope audit of its financial statements in accordance with Generally Accepted Accounting Principles (GAAP) and the Governmental Accounting Standards Board (GASB). No individual employed by or affiliated with the engaged audit firm shall serve as a member or director of the Board of the Friends of IPTV. The annual audit shall be comprehensive and performed in accordance with GAAP standards.

B. Reporting to IPTV General Manager

The Friends of IPTV shall no less frequently than annually report directly in writing to the IPTV General Manager or his designee the following items: Regular financial audit report; Annual report of transfers made to the institution, summarized by department; Annual report of unrestricted funds received, and of unrestricted funds available for use in that fiscal year; A list of Friends of IPTV officers, directors, and employees; Confirmation that no payments were made to any IPTV employee for supplemental compensation or otherwise; A list of all State and Federal contracts and grants managed by the Friends of IPTV; a report of the Friends of IPTV's major activities; a report of each real estate purchase or material capital lease, investment, or financing arrangement entered into during the preceding fiscal year of the

Friends of IPTV for the benefit of the institution; a report of any actual litigation involving the Friends of IPTV during its fiscal year, as well as legal counsel used by the Friends of IPTV for any purpose during such year, including a discussion of any potential or threatened litigation involving the Friends of IPTV or the IPTV Endowment.

ARTICLE VI CONFLICTS OF INTEREST AND CODE OF ETHICS AND CONDUCT

A copy of the Friends of IPTV Conflicts of Interest policy is found under Schedule III.

ARTICLE VII GENERAL PROVISIONS

A. Notices

All notices and other communications ("Notices") shall be in writing and may be delivered (i) in person, with the date of notice being the date of personal delivery, (ii) by United States Mail, postage prepaid for certified or registered mail, return receipt requested, with the date of notice being the date of the postmark on the return receipt, (iii) by fax, with confirmation of the transmittal of the fax and a copy of the fax deposited on the same day in the United States Mail, with the date of notice being the date of the fax, (iv) by e-mail, with confirmation of sending of the e-mail and a copy of the e-mail deposited on the same day in the United States Mail, with the date of notice being the date of the e-mail, (v) by nationally recognized delivery service such as Federal Express, with the date of notice being the date of delivery as shown on the confirmation provided by the delivery service.

B. Severability

The invalidity of any portion of this Agreement shall not affect the validity of any other portion of this Agreement.

C. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

D. Governing Law

This Agreement shall be governed by the substantive laws of the State of Idaho and Federal law and regulations consistent with Federal Communication Commission guidelines applicable to licensees of public television broadcast services.

IDAHO PUBLIC TELEVISION

Dated: 11/4/25

By: [Signature]

Jeff Tucker, General Manager

FRIENDS OF IDAHO PUBLIC TELEVISION, INC.

Dated: 4 November 2025

By: [Signature]

Jenny Emery Davidson, President

SCHEDULE I

**Services Provided by Idaho Public Television to the Friends of Idaho Public
Television, Inc.**

Administrative Support: Provide administrative support to Friends Board of Directors relating to their activities of compliance with state, federal and private guidelines and regulations.

General Clerical Support: Provide general clerical support for board and committee meetings.

Technical: Provide meeting space and technical support for board and committee meetings.

Financial: Provide support for fund-raising deposits and payment of related expenses including board member travel and meeting expenses.

Coordinate and provide administrative support for the annual audit.

Maintain financial records as required by state, federal and private entities.

Other: Provide additional support services as mutually agreed upon outside these parameters.

SCHEDULE II

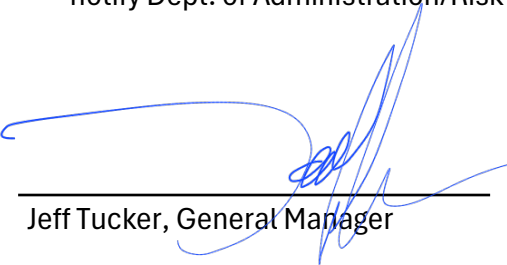
Procedures for IPTV Endowment Expenditures and Financial Transactions

1. The Friends of IPTV will establish a budget plan on an annual basis for the unrestricted Operating funds. The budget will include any distributions authorized to be made from the Endowment for the fiscal year.
2. Once a budget has been established and authorized by the Friends of IPTV, the Fiscal Affairs manager of IPTV, or designee providing administrative assistance as provided in
3. Article II.A.1, shall have authority to authorize and make expenditures to the extent they fall within the budget and are not unusual in nature. Items that arise during the year under \$100,000 that are not budgeted or that vary significantly from the budget will require approval of the President of the Friends of IPTV. Unexpected costs above \$100,000 will require approval from the Executive Committee of the Friends of IPTV.
4. Quarterly financial reports will be provided to the Treasurer and Executive Committee within 30 days of the close of the period. Detailed budget reports will be provided to the Board of Directors at each board meeting. Budget variances of 10% or more will be referenced on budget reports.
5. All checks will require two signatures.

STATE OF IDAHO
STATE AGENCY INDEMNITY HOLD HARMLESS
MEMORANDUM OF UNDERSTANDING

The Idaho State Board of Education and Idaho Public Television understand that each is insured with respect to tort liability by the State of Idaho Retained Risk Account, a statutory system of self-insurance, and are subject to the Idaho Tort Claims Act.

1. Liability coverage. The parties understand that each is covered with respect to tort liability by the State of Idaho, Department of Administration, Risk Management Program utilizing the Retained Risk Account. This is a plan of liability coverage provided by and subject to provisions of the Idaho Tort Claims Act, and the Department of Administration, Risk Management statutes.
2. Liability allocation of loss history and assessments. The parties agree that any tort liability claim, suit or loss resulting from or arising out of the parties' performance of any activities under this Memorandum of Understanding (MOU) shall be allocated to one or both parties by the Department of Administration, Risk Management Program for purposes of loss experience and subsequent allocation of agency premium assessments. Each party to this contract agrees to notify the Department of Administration, Risk Management Program and the other party in the event it receives notice or knowledge of any claims arising out of the performance of, or the parties' activities under this contract.
3. If damaged property or vehicle is covered by property or auto coverage through Dept. of Administration/ Risk Management, the loss will be charged to the agency that caused the damage and will be responsible for the deductible. If the property is not covered Dept. of Administration/Risk Management Program, the agencies will have to negotiate the issue. Each agency will agree to handle damage to its own property regardless of which agency caused the damage for all losses, or for any in which it was not clear who was at fault. Both agencies will notify Dept. of Administration/Risk Management similar to that for third party liability claims.



Jeff Tucker, General Manager

Date

SBOE Board President

Date

NonProfit ExecShield®

Management Liability Insurance Policy

NOTICE: THIS POLICY PROVIDES COVERAGE ON A CLAIMS MADE AND REPORTED BASIS SUBJECT TO ITS TERMS. THIS POLICY APPLIES ONLY TO ANY CLAIM FIRST MADE AGAINST THE INSURED AND REPORTED TO THE INSURER DURING THE POLICY PERIOD OR ANY EXTENDED REPORTING PERIOD THAT MAY APPLY.

PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.

IF INDICATED IN ITEM 4. A. BELOW, THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES OR SETTLEMENTS SHALL BE REDUCED AND MAY BE COMPLETELY EXHAUSTED BY AMOUNTS INCURRED AS LEGAL DEFENSE COSTS. THE INSURER SHALL NOT BE LIABLE FOR LEGAL COSTS OF DEFENSE OR FOR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT AFTER EXHAUSTION OF THE LIMIT OF LIABILITY.

Whenever printed in this Declarations Page, the boldface type terms shall have the same meanings as indicated in the **Policy**.

Item 1. Name and Address of Named Insured: **Policy Number: DCP-898834-P17**
Friends of Idaho Public Television, Inc.
1455 North Orchard Street
Boise, ID 83706

Item 2. Policy Period: From April 29, 2025 (inception date) to April 29, 2026 (expiration date)
(Both dates at 12:01 a.m. Standard Time at the address of the **Named Insured**)

Item 3. Purchased Coverage Sections:

i. Directors, Officers and Organization Liability Insurance Coverage Section:	☒ Yes	☐ No
ii. Employment Practices Liability Insurance Coverage Section:	☒ Yes	☐ No
Third Party Wrongful Act Liability Coverage included:	☒ Yes	☐ No
iii. Fiduciary Liability Insurance Coverage Section:	☐ Yes	☒ No

Item 4. Cost of Defense for the Policy Period:

☐ A. **Costs of Defense** Reduce the Limit of Liability in Item 5. below

☒ B. **Costs of Defense** in Addition the Limit of Liability in Item 5. below

Item 5. Limits of Liability for the Policy Period:

A. Shared Policy Aggregate Limit of Liability for all **Coverage Sections** purchased as indicated above. Not Applicable

OR

B. Separate Aggregate Limit of Liability for each **Coverage Sections**:

1. Directors, Officers and Organization Liability Insurance Coverage Section:	\$2,000,000
2. Employment Practices Liability Insurance Coverage Section:	\$2,000,000
3. Fiduciary Liability Insurance Coverage Section:	Not Applicable

Item 6. Applicable Deductibles:

- i. Directors, Officers and Organization Liability Insurance Coverage Section:
 - A. **Insured Person** Non-Indemnifiable: \$0
 - B. **Insured Person** Indemnifiable: \$0
 - C. **Insured Entity** Liability: \$1,000
- ii. Employment Practices Liability Insurance Coverage Section: \$1,000
- iii. Fiduciary Liability Insurance Coverage Section: Not Applicable

Item 7. Premium:

\$2,301

Terrorism coverage is included for \$0

Broker Fee: \$200.00

Item 8. Prior Acts Dates:

- i. Directors, Officers and Organization Liability Insurance Coverage Section Prior Acts Date: Not Applicable
- ii. Employment Practices Liability Insurance Coverage Section Prior Acts Date: Not Applicable
- iii. Fiduciary Liability Insurance Coverage Section Prior Acts Date: Not Purchased

Item 9. Forms and Endorsements attached at inception:

Policy Form: NP 23300- rev0417 / CT 22330- rev0417; EPL 23300- rev0417

1	265-	0220	Policyholder Disclosure – Notice of Terrorism Insurance Coverage
2	266-	(02/20)	Cap on Losses from Certified Acts of Terrorism
3	701-CR-	0419	CLAIM REPORTING PROCEDURES
4	CT 230903-	rev0417	Identity Theft Expense Supplemental Coverage
5	CT 230906-	rev0417	Kidnap Expense Supplemental Coverage
6	CT 230913-	rev0417	Failed Donation Claim Supplemental Coverage
7	CT 232041-	rev0417	Modification to Automatic Extended Reporting Period
8	CT 233093-	0417	Acquisition or Creation of a Subsidiary
9	CT 234302-	rev0417	Prior and Pending Litigation Exclusion Increased Limit of Liability
10	CT 234322-	rev0417	Interested Party Exclusion
11	CT 235014-	rev0417	Waiver of Deductible if No Liability
12	EPL 233102-	rev0923	Privacy Violation Coverage Sub-Limit for Loss
13	EPL 233630-	rev0622	Costs of Defense Sub-Limit for Wage and Hour Wrongful Acts
14	ID-PHN-	1019	IDAHO POLICY HOLDER NOTICE
15	NP 233045-	rev0417	Excess Benefit Penalty Coverage
16	NP 234354-	rev0417	Professional Services Exclusion
17	NP 234400-	rev0417	Intellectual Property Exclusion
18	NP-ID-	0417	Idaho Amendatory Endorsement

The Nonprofit Management Liability Insurance **Policy** shall constitute the contract between the **Insureds** and the **Insurer**.

POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM INSURANCE COVERAGE

Coverage for acts of terrorism, as defined in the Terrorism Risk Insurance Act, as amended, (the "Act"), is included in your policy. As defined in Section 102(1) of the Act: The term "act of terrorism" means any act that is certified by the Secretary of the Treasury—in consultation with the Secretary of Homeland Security, and the Attorney General of the United States—to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion. Under your coverage, any losses resulting from certified acts of terrorism may be partially reimbursed by the United States Government under a formula established by the Act. However, your policy may contain other exclusions which might affect your coverage, such as an exclusion for nuclear events. Under the formula, the United States Government generally reimburses 80% beginning on January 1, 2020, of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage. The Act contains a \$100 billion cap that limits U.S. Government reimbursement as well as insurers' liability for losses resulting from certified acts of terrorism when the amount of such losses exceeds \$100 billion in any one calendar year. If the aggregate insured losses for all insurers exceed \$100 billion, your coverage may be reduced.

The portion of your annual premium that is attributable to coverage for acts of terrorism as defined in the Act is \$0, and does not include any charges for the portion of losses covered by the United States government under the Act.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM

This endorsement modifies insurance provided under the following:

DIRECTORS, OFFICERS AND CORPORATE LIABILITY INSURANCE COVERAGE SECTION
DIRECTORS, OFFICERS AND ORGANIZATION LIABILITY INSURANCE COVERAGE SECTION
FIDUCIARY LIABILITY INSURANCE COVERAGE SECTION
EXCESS INSURANCE POLICY
GENERAL LIABILITY COVERAGE PART
COMMUNITY ASSOCIATION LEADERS PROFESSIONAL LIABILITY INSURANCE POLICY – DIRECTORS AND OFFICERS LIABILITY COVERAGE
EMERGENCY MEDICAL SERVICES GENERAL LIABILITY COVERAGE PART

In consideration of the premium paid for this Policy, it is amended as follows:

If aggregate insured losses attributable to terrorist acts certified under the federal Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and the insurer has met its insurer deductible under the Terrorism Risk Insurance Act, the Insurer shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in consultation with the Secretary of Homeland Security and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for any loss that is otherwise excluded under this Policy.

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BERKLEY SELECT**CLAIM REPORTING
PROCEDURES**

In the event of an incident which may result in a claim, an actual claim or your receipt of suit papers, please follow the procedures outlined below:

NOTICE OF EACH INCIDENT, CLAIM OR SUIT SHOULD IMMEDIATELY BE REPORTED TO:

BERKLEY SELECT CLAIMS DEPARTMENT
on behalf of Carolina Casualty Insurance Company
550 W. Jackson Blvd., Suite 500
Chicago, IL 60661
Fax: (312) 207-1933
E-mail: newclaim@berkleyselect.com
Online: www.berkleyselect.com/claims/report-claim

TO ENABLE US TO RESPOND MORE QUICKLY AND EFFICIENTLY, please fax or email any pertinent details of the claim directly to our attention.

PLEASE BE SURE TO INCLUDE:

- **Your Name, Address and Phone Number;**
- **Your Policy Number and the Policy Period;**
- **A written narrative of the circumstances surrounding the claim or potential claim;**
- **Names and addresses of the claimant;**
- **Details of the any underlying claim, including current status and the amount in controversy or relief demanded.**
- **If you are submitting the report by mail or fax, please also include any letters of demand or any legal papers which you have received regarding the claim.**

Please provide your professional liability insurance agent a copy of all claim notices and correspondence sent to Berkley Select.

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Identity Theft Expense Supplemental Coverage

In consideration of the premium paid for this **Policy**, it is amended by the addition of the following:

1. **Identity Theft Expense Coverage**

The **Insurer** shall reimburse any present director, trustee or officer of the **Named Insured** up to a maximum aggregate limit of \$10,000 per **Policy Period**, for **Identity Theft Expense** incurred in specific response to an **Identity Theft** first discovered and reported to the **Insurer** during the **Policy Period** pursuant to paragraph 4. below, provided; however, that the **Identity Theft** began to occur after the inception date of the first Nonprofit Management Liability Insurance Policy issued by the **Insurer** to the **Named Insured**.

No Deductible shall apply to this coverage and any payments made hereunder shall not reduce the Limits of Liability stated in Item 5. of the Declarations.

2. Solely for purpose of the coverage provided by this endorsement for **Identity Theft Expense**, section III. Definitions of the Common Policy Terms and Conditions Section of this Policy is amended by the addition of the following:

Identity Theft means the act of knowingly transferring or using, without lawful authority, personally identifiable information of a present director, trustee or officer (or spouse thereof) of the **Named Insured** with the intent to commit, aid, or abet any unlawful activity that constitutes a violation of federal law or a felony under any applicable state or local law.

Identity Theft Expense means:

1. the expenses incurred to notarize affidavits or similar documents attesting to fraud required by financial institutions or similar credit grantors or credit agencies, or
2. the expenses incurred for certified mail to law enforcement agencies, credit agencies, financial institutions or similar credit grantors, or
3. loan application fees for re-applying for a loan or loans when the original application is rejected solely because the lender received incorrect credit information.

3. Solely for purpose of the coverage provided by this endorsement for **Identity Theft Expense**, section V. Limits of Liability and Deductibles of the Common Policy Terms and Conditions Section of this Policy is amended by the addition of the following:

V. If any **Identity Theft Expense** is covered under this endorsement and under any other **Coverage Section** or endorsement to this **Policy**, the largest applicable limit shall apply. In no event shall multiple limits apply to coverage which may be duplicated within this **Policy**. Additionally, if this **Policy** and any other policy or coverage issued by the **Insurer** or any affiliate of the **Insurer**, apply to the same occurrence, offense, wrongful act, accident or loss, the maximum limit of liability or coverage under all such policies and coverage combined shall not exceed the highest applicable limit under any one policy or coverage.

V. The coverage provided by this endorsement shall be excess of, and shall not contribute with, any other valid and collectible insurance policy (other than a policy that is issued specifically as excess of the insurance afforded by this coverage section); regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise. The coverage provided by this **Policy** shall be excess over any other policy under which another insurer has a duty to defend a claim for which this **Policy** may be obligated to pay as a result of loss.

4. As a condition precedent to their rights to coverage under this endorsement for **Identity Theft Expense**, the Insured shall give the **Insurer** written notice of any **Identity Theft** first discovered by the **Insureds** during the **Policy Period**, as soon as practicable, but in no event later than 30 days after the discovery of the **Identity Theft**. Further, the **Insured** shall furnish to the **Insurer** proof of loss, duly sworn to, with full particulars, no later than 90 days after discovery of such **Identity Theft**.

5. The coverage provided by this endorsement for **Identity Theft Expense** does not include any claim adjustment costs incurred by any Insured, including any fees incurred by retaining counsel, a public adjuster or appraiser.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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**Kidnap Expense
Supplemental Coverage**

In consideration of the premium paid for this **Policy**, it is amended by the addition of the following:

1. **Kidnap Expense Coverage**

The **Insurer** shall reimburse the **Insured Entity** up to a maximum aggregate limit of \$50,000 per **Policy Period** for **Kidnap Expense** incurred by the **Insured Entity** or any **Insured Person** as a direct result of a **Kidnapping** that occurs during the **Policy Period** and is reported to the **Insurer** pursuant to paragraph 4. below.

No Deductible shall apply to this coverage and any payments made hereunder shall not reduce the Limits of Liability stated in Item 5. of the Declarations.

2. Solely for purpose of the coverage provided by this endorsement for **Kidnap Expense**, section III. Definitions of the Common Policy Terms and Conditions Section of this **Policy** is amended by the addition of the following:

Insured Person means any present or future duly elected or appointed director, trustee or officer of an **Insured Entity**. The term **Insured Person** shall include the parent, child, spouse or **Domestic Partner** of an **Insured Person**.

Kidnap Expense means the reasonable fees and expenses for, or the cost of:

1. an independent negotiator or security consultant retained with prior written approval of the **Insurer**, or
2. interest on any loan taken by the **Named Insured** for property or other consideration surrendered as payment of a **Kidnapping** demand, or
3. travel and accommodations incurred by the **Insured Entity** which become necessary due to the applicable **Kidnapping**, or
4. a reward paid by the **Insured Entity**, which is pre-approved by the **Insurer**, to an informant for information not otherwise available which leads to the arrest and conviction of persons responsible for the applicable **Kidnapping**, or
5. the current salary of an **Insured Person** who is **Kidnapped**, provided, however, that they are held for more than 30 days. Salary shall be paid for a period commencing upon the abduction and ceasing upon the earliest of either the release of the employee or discovery of death of the employee, or 120 days after the **Insurer** receives the last credible evidence that the employee is still alive, or 12 months after the date of **Kidnapping**, or the exhaustion of the Kidnap Expense Coverage limit, whichever comes first.

Kidnapping or **Kidnapped** means the wrongful abduction and holding, under duress or by fraudulent means, of an **Insured Person** by a person or group, whether acting alone or in collusion with others, that includes a demand for payment by an **Insured** in exchange for the release of the **Insured Person**. **Kidnapping** shall not include the wrongful abduction of any **Insured Person** by or at the direction of any present or former family member of any **Insured Person**.

3. Solely for purpose of the coverage provided by this endorsement for **Kidnap Expense**, section V. Limits of Liability and Deductibles of the Common Policy Terms and Conditions Section of this **Policy** is amended by the addition of the following:

- V. If any **Kidnap Expense** is covered under this endorsement and under any other **Coverage Section** or endorsement to this **Policy**, the largest applicable limit shall apply. In no event shall multiple limits apply to coverage which may be duplicated within this **Policy**. Additionally, if this **Policy** and any other policy or coverage issued by the **Insurer** or any affiliate of the **Insurer**, apply to the same occurrence, offense, wrongful act, accident or loss, the maximum limit of liability or coverage under all such policies and coverage combined shall not exceed the highest applicable limit under any one policy or coverage.
- V. The coverage provided by this endorsement shall be excess of, and shall not contribute with, any other valid and collectible insurance policy (other than a policy that is issued specifically as excess of the insurance afforded by this coverage section); regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise. The coverage provided by this **Policy** shall be excess over any other policy under which another insurer has a duty to defend a claim for which this **Policy** may be obligated to pay as a result of loss.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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4. As a condition precedent to their rights to coverage under this endorsement for **Kidnap Expense**, the **Insured** shall give the **Insurer** written notice of any **Kidnapping** which occurs during the **Policy Period**, as soon as practicable, but in no event later than 30 days after the occurrence of the **Kidnapping**. Further, the **Insured** shall furnish to the **Insurer** proof of loss, duly sworn to, with full particulars, no later than 90 days after the occurrence of such **Kidnapping**.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Failed Donation Claim Supplemental Coverage

In consideration of the premium paid for this **Policy**, it is amended by the addition of the following:

1. Failed Donation Claim Coverage

The **Insurer** shall reimburse the **Insured Entity** up to a maximum aggregate limit of \$10,000 per **Policy Period** for all **Failed Donation Claims** received by the **Insured Entity** during the **Policy Period** and reported to the **Insurer** pursuant to item 4. below.

Coverage for any **Failed Donation Claim** shall not apply to any pledge for funds or other measurable tangible property made to the **Insured Entity** dated prior to April 29, 2009.

Coverage for any **Failed Donation Claim** shall not apply if the donor has been in bankruptcy, or has filed for bankruptcy or reorganization prior to the time the applicable pledge was made to the **Insured Entity**.

Coverage for any **Failed Donation Claim** shall not apply if either the natural person donor or any **Insureds** had or should have had any reason to believe the natural donor person would become unemployed or incapacitated subsequent to the donation date.

No Deductible shall apply to this coverage and any payments made hereunder shall not reduce the Limits of Liability stated in Item 5. of the Declarations.

2. Solely for purpose of the coverage provided by this endorsement for any **Failed Donation Claim**, section III. Definitions of the Common Policy Terms and Conditions Section of this **Policy** is amended by the addition of the following:

Failed Donation Claim means a written notice to the **Insured Entity** during the **Policy Period** of:

1. the bankruptcy or reorganization of any donor whereby such bankruptcy or reorganization prevents the donor from honoring a prior written pledge of funds or other measurable tangible property to the **Insured Entity**; or
2. the unemployment or incapacitation of a natural person donor lasting at least 60 days and preventing the donor from honoring a pledge made prior to said unemployment or incapacitation of funds or other measurable tangible property to the **Insured Entity**.

3. Solely for purpose of the coverage provided by this endorsement for any **Failed Donation Claim**, section V. Limits of Liability and Deductibles of the Common Policy Terms and Conditions Section of this **Policy** is amended by the addition of the following:

- V. Any coverage for any **Failed Donation Claim** for non-cash donations shall be based on the fair market value of the non-cash donation on the date the **Failed Donation Claim** is received. Any donation amount which is to be collected by the **Insured Entity** over more than a 12 month period shall be deemed to be a single donation.
- V. If any **Failed Donation Claim** is covered under this endorsement and under any other **Coverage Section** or endorsement to this **Policy**, the largest applicable limit shall apply. In no event shall multiple limits apply to coverage which may be duplicated within this **Policy**. Additionally, if this **Policy** and any other policy or coverage issued by the **Insurer** or any affiliate of the **Insurer**, apply to the same occurrence, offense, wrongful act, accident or loss, the maximum limit of liability or coverage under all such policies and coverage combined shall not exceed the highest applicable limit under any one policy or coverage.
- V. The coverage provided by this endorsement shall be excess of, and shall not contribute with, any other valid and collectible insurance policy (other than a policy that is issued specifically as excess of the insurance afforded by this coverage section); regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise. The coverage provided by this **Policy** shall be excess over any other policy under which another insurer has a duty to defend a claim for which this **Policy** may be obligated to pay as a result of loss.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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4. As a condition precedent to their rights to coverage under this endorsement for any **Failed Donation Claim**, the **Insured** shall give the **Insurer** written notice of any **Failed Donation Claim** received by the **Insured Entity** during the **Policy Period**, as soon as practicable, but in no event later than 30 days after receipt of the **Failed Donation Claim** by the **Insured**. Further, the **Insured** shall furnish to the **Insurer** proof of loss, duly sworn to, with full particulars, no later than 90 days after the occurrence of such **Failed Donation Claim**.
5. The coverage provided by this endorsement for any **Failed Donation Claim** does not include any claim adjustment costs incurred by any **Insured**, including any fees incurred by retaining counsel, a public adjuster or appraiser.

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Modification to Automatic Extended Reporting Period

In consideration of the premium paid for this **Policy**, section II. B. Automatic Extended Reporting Period sub-paragraph 1 of the Common Policy Terms and Conditions Section this **Policy** is deleted in its entirety and replaced with the following:

- II. B. 1. If the **Named Insured** cancels or if the **Insurer** or the **Named Insured** refuses to renew this **Policy** and the **Named Insured** has not purchased any similar insurance policy(ies) there shall be a 90 day automatic extension of the reporting period of this **Policy** for any **Claim** first made against an **Insured** and reported during such 90 day period after the date upon which the **Policy Period** ends, but only with respect to any **Wrongful Act** fully occurring prior to the end of the **Policy Period** and otherwise covered by this **Policy**. 90 day period shall be referred to as the Automatic Extended Reporting Period. There shall be no additional premium for the Automatic Extended Reporting Period.

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Acquisition or Creation of a Subsidiary

In consideration of the premium paid for this **Policy**, sub-paragraphs 1. and 2. of the defined term **Subsidiary** in section III. Definitions of the Common Policy Terms and Conditions Section of this **Policy** are deleted in their entirety and replaced with the following:

1. Automatically for a **Subsidiary**, whose assets are less than fifty percent (50%) of the total consolidated assets of the **Insured Entity** as of the **Policy** inception date; or
2. If the assets of such **Subsidiary** are equal to or greater than fifty percent (50%) of the total consolidated assets of the **Insured Entity** as of the **Policy** inception date, then only upon the condition that within ninety (90) days of it becoming a **Subsidiary**, the **Named Insured** provides the **Insurer** in writing with full particulars of the new **Subsidiary** and agrees to any additional premium and/or amendment of the provisions of this **Policy** required by the **Insurer** related to such new **Subsidiary**. Further, coverage as shall be afforded to the new **Subsidiary** is conditioned upon the **Named Insured** paying when due any additional premium required by the **Insurer** relating to such new **Subsidiary**.

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Prior and Pending Litigation Exclusion
Increased Limit of Liability

In consideration of the premium paid for this **Policy**, solely with respect to the Directors and Officers and Employment Practices Liability Limit of Liability of \$2,000,000 excess of \$1,000,000, section IV. Exclusions of the Directors and Officers and Employment Practices Liability of this **Policy** is amended by the addition of the following:

- IV. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving:
- any prior or pending litigation, investigation, administrative or arbitration proceeding as of 4/29/2022, or
 - any fact, circumstance, situation, transaction or event underlying or alleged in such litigation, investigation, administrative or arbitration proceeding,
- regardless of the legal theory upon which such **Claim** is predicated.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Interested Party Exclusion

In consideration of the premium paid for this **Policy**, section IV. Exclusions of the Common Terms of this **Policy** is amended by the addition of the following:

- IV. brought or maintained by or on behalf of Idaho Public Television and/or Idaho State Board of Education and/or its subsidiaries and/or its affiliates and/or its directors and/or officers.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Waiver of Deductible if No Liability

In consideration of the premium paid for this **Policy** it is amended as follows:

1. Section III. Definitions of the Common Policy Terms and Conditions Section of this **Policy** is amended by the addition of the following:

No Liability means with respect to a **Claim** made against the **Insured**:

- a final judgment of no liability obtained prior to trial, in favor of all **Insureds**, with respect to the entire **Claim**, by reason of a motion to dismiss or a motion for summary judgment, after the exhaustion of all appeals, if any, or
- a final judgment of no liability obtained after trial, in favor of all **Insureds**, with respect to the entire **Claim**, after the exhaustion of appeals, if any.

In no event shall the term **No Liability** apply to a **Claim** made against an **Insured** for which a settlement has occurred.

2. Section V. D. Deductibles of the Common Policy Terms and Conditions Section of this **Policy** is amended by the addition of the following:

V. D. No Deductible shall apply, even as to **Costs of Defense**, to any **Claim** which is in the form of a civil action for monetary relief, in which:

- there is a determination of **No Liability**; or
- the **Claim** is dismissed or stipulated dismissed without prejudice and without any payment of any consideration by any **Insured**.

If there is a determination of **No Liability** in a **Claim**, the **Insurer** shall reimburse **Costs of Defense** paid by the **Insured** in such **Claim**.

If a **Claim** is dismissed or stipulated dismissed without prejudice and without any payment of any consideration by any **Insured**, the **Insurer** shall reimburse **Costs of Defense** paid by the **Insured** in such **Claim** 90 days after the date of the dismissal or stipulation so long as (i) the **Claim** (or any other **Claim** which together with such **Claim** would be deemed a single **Claim**) is not brought again within such 90 day period and (ii) the **Insured Entity** provides the **Insurer** with a written undertaking in a form satisfactory to the **Insurer** to repay the **Insurer** for such reimbursement in the event the **Claim** (or any other **Claim** which together with such **Claim** would be deemed a single **Claim**) is brought again after such 90 day period and before the expiration of the statute of limitations for such **Claim**.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Privacy Violation Coverage Sub-Limit for Loss

In consideration of the premium paid for this **Policy** it is amended as follows:

1. Section I. Insuring Agreement of the Employment Practices Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:
 - I. **Privacy Violation Coverage**
 This **Policy** shall pay on behalf of the **Insureds** all **Loss** up to the maximum sub-limit of liability of **\$25,000** based upon, arising out of, directly or indirectly resulting from, or in consequence of, or in any way involving a **Privacy Violation Claim** first made against the **Insureds** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. of the Common Policy Terms and Conditions Section of this **Policy**, for or arising from any actual or alleged **Privacy Violation Wrongful Act** committed subsequent to the **Prior Acts Date**.
 Such sub-limit shall be part of, and not in addition to, the Limit of Liability applicable to the Employment Practices Liability Coverage Section.
2. Section III. Definitions **Claim** of the Employment Practices Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:
 - III. **Claim** means a **Privacy Violation Claim**.
3. Section III. Definitions **Wrongful Act** of the Employment Practices Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:
 - III. **Wrongful Act** means a **Privacy Violation Wrongful Act**.
4. Section III. Definitions **Wrongful Employment Act** of the Employment Practices Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:
 - III. **Wrongful Employment Act** shall not include any **Privacy Violation Wrongful Act**.
5. Section III. Definitions of the Employment Practices Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:
 - III. **Biometric Identifiers** means any physical, genetic, physiological, biological, or behavioral characteristic or attribute that allows an individual to be identified, including but not limited to the following: (a) retina or iris scan; (b) fingerprint; (c) voiceprint; (d) DNA; (e) finger, hand, or palm scan; (f) scan of hand or face geometry; (g) vein patterns; (h) voice recordings; (i) keystroke patterns or rhythms; (j) gait patterns or rhythms; (k) sleep, health, or exercise data that contain identifying information; or (l) any other biometric algorithm or measurement of (a) through (k) or any other physical, genetic, physiological, biological or behavioral characteristic or attribute which allows an individual to be identified.
 - III. **Biometric Information** means any information, regardless of how it is captured, converted, stored, or shared, that is based on, or includes, any **Biometric Identifiers**.
 - III. **Personal Information** means an Individual's name in combination with one or more of the following:
 1. information concerning that individual that constitutes "non-public personal information" as defined in the Gramm-Leach-Bliley Act of 1999, including amendments thereto; or
 2. medical or health care information concerning that individual, including "protected health information" as defined in the Health Insurance Portability and Accountability Act of 1996, including amendments thereto, or
 3. that individual's social security number, driver's license or state identification number, credit, debit or other financial account numbers and associated security codes, access codes, passwords or personal identification numbers; or
 4. **Biometric Information**, or

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5. information concerning that individual that is defined as private personal information under any federal, state, local or foreign law, common or statutory, or any rule or regulation promulgated thereunder.
- III. **Privacy Policy** means the internal or publicly accessible written documents that set forth the **Insured Entity's** policies, standards and procedures for obtaining, gathering, collecting, sharing, disclosing, transmitting, distributing, selling, accessing, using, storing, retaining, safeguarding, alteration of, converting, destroying, or disposal of **Personal Information**.
- III. **Privacy Violation Claim** means:
1. a written demand for monetary or non-monetary relief, including but not limited to, any demand for mediation, arbitration arising from a **Privacy Violation Wrongful Act**; or
 2. a civil, administrative or regulatory investigation or proceeding arising from a **Privacy Violation Wrongful Act**; or
 3. a written request made to the **Named Insured** to toll or waive the statute of limitations for any **Privacy Violation Wrongful Act**; or
 4. **Privacy Violation Claim** shall not include any grievance or arbitration based upon, arising out of, directly or indirectly resulting from, or in consequence of, or in any way involving a collective bargaining agreement.
- III. **Privacy Violation Wrongful Act** means:
1. an **Insured's** failure to prevent theft, unauthorized access, unauthorized dissemination, publication or disclosure of **Personal Information** that is in the care, custody or control of the **Insured Entity**, or an independent contractor that is holding or processing such information on behalf of the **Insured Entity**; or
 2. the **Insured Entity's** failure to timely disclose an incident or event triggering a violation of any Breach Notice Law requiring notice to individuals whose **Personal Information** was accessed or may reasonably have been accessed by an unauthorized person; or
 3. failure by an **Insured** to comply with its **Privacy Policy** including that part which:
 - a. prohibits or restricts the **Insured Entity's** disclosure, sharing or selling of **Personal Information**;
 - b. requires the **Insured Entity** to provide access to **Personal Information** or to correct incomplete or inaccurate **Personal Information** after a request is made by an individual; or
 - c. mandates procedures and requirements to prevent the loss of **Personal Information**.
6. Section IV. Exclusions of the Employment Practices Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:
- IV. based upon, arising out of, directly or indirectly resulting from, or in consequence of, or in any way involving:
1. denial of service attack upon or directed at any computer system; or
 2. malicious use of computer code or any computer virus created or transmitted by, or introduced into any computer system; or
 3. loss of, loss of use of, corruption of, damage to, disruption of, or inability to access or alter electronic data;
- provided, however, this exclusion shall not apply to the Privacy Violation Coverage provided by this endorsement.
7. Section V. Other Insurance of the Employment Practices Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Carolina Casualty Insurance Company

- V. Unless specifically stated otherwise, the coverage afforded under this endorsement for a **Privacy Violation Claim** shall be excess of, and shall not contribute with, any other valid and collectible insurance policy (other than a policy that is issued specifically as excess of the insurance afforded by this coverage section), regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Costs of Defense Sub-Limit for Wage and Hour Wrongful Acts

In consideration of the premium paid for this **Policy**, it is amended as follows:

1. Section I. Insuring Agreements of the Employment Practices Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:
 - I. **Costs of Defense for Wage and Hour Claims**

This **Policy** shall pay on behalf of the **Insureds** the **Costs of Defense** up to the maximum aggregate sub-limit of liability of \$100,000 arising from any **Wage and Hour Claim** first made against the **Insureds** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. of the Common Policy Terms and Conditions Section of this **Policy**, for any actual or alleged **Wage and Hour Wrongful Act** committed subsequent to the **Prior Acts Date**.

Such aggregate sub-limit shall be part of, and not in addition to, the Limit of Liability applicable to the Employment Practices Liability Coverage Section stated in Item 5. of the Declarations.

With respect to a **Wage and Hour Claim**, the **Insurer** shall not be liable for any **Loss** other than **Costs of Defense**.
2. For the purpose of the coverage provided by this endorsement, section III. Definitions **Claim** of the Employment Practices Liability Insurance Coverage Section of this **Policy** is deleted in its entirety and replaced with the following:
 - III. **Claim** means a **Wage and Hour Claim**.
3. For the purpose of the coverage provided by this endorsement, section III. Definitions **Employee** of the Employment Practices Liability Insurance Coverage Section of this **Policy** is deleted in its entirety and replaced with the following:
 - III. **Employee** means an individual whose labor or service is engaged by and directed by an **Insured Entity**, including any full-time, part-time, leased, seasonal or temporary individual. **Employee** shall not include equity partners or shareholders, owners, Limited Liability Company members, volunteers, interns or independent contractors.
4. For the purpose of the coverage provided by this endorsement, section III. Definitions **Loss** of the Common Policy Terms and Conditions Section of this **Policy** is deleted in its entirety and replaced with the following:
 - III. **Loss** means **Costs of Defense**.
5. For the purpose of the coverage provided by this endorsement, section III. Definitions **Wrongful Act** of the Employment Practices Liability Insurance Coverage Section of this **Policy** is deleted in its entirety and replaced with the following:
 - III. **Wrongful Act** means **Wage and Hour Wrongful Act**.
6. For the purpose of the coverage provided by this endorsement, section III. Definitions of the Employment Practices Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:
 - III. **Wage and Hour Claim** means:
 1. a written demand for monetary or non-monetary relief which is brought and maintained by an **Employee** against an **Insured**, arising from a **Wage and Hour Wrongful Act**; or
 2. an administrative or regulatory investigation or proceeding commenced by or before a federal, state, local or foreign agency which is brought and maintained by an **Employee** against an **Insured**, arising from a **Wage and Hour Wrongful Act**;

provided, however, the term **Wage and Hour Claim** shall not include any grievance or arbitration based upon, arising out of, directly or indirectly resulting from, or in consequence of, or in any way involving a collective bargaining agreement.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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- III. **Wage and Hour Wrongful Act** means any actual or alleged violation by the **Insured** of any federal, state, local, or foreign wage and hour laws whether statutory or common law, including without limitation, the Fair Labor Standards Act or the Families First Coronavirus Response Act; including any amendments thereto, or any similar provisions of any federal, state, local or foreign statutory or common law, and/or any payroll policies, practices and procedures, including the reimbursement of claimed business expenses arising from an actual employment relationship with an **Employee**.
7. For the purpose of the coverage provided by this endorsement section IV. Exclusions F. (inclusive of the first paragraph of section IV.) of the Employment Practices Liability Insurance Coverage Section of this **Policy** is deleted in its entirety and replaced with the following:
- IV. F. The **Insurer** shall not be liable to make any payment, other than **Costs of Defense** for **Wage and Hour Claims** provided by this endorsement, in connection with a **Claim** made against any **Insured** based upon, arising out of, directly or indirectly resulting from, or in consequence of, or in any way involving any actual or alleged violations of any federal, state, local or foreign laws regulating wage and hour practices such as unpaid wages, unreimbursed expenses, improper payroll deductions, improper employee classification, failure to maintain or provide accurate time records, failure to grant meal and rest periods, whether statutory or common law, including without limitation, the Fair Labor Standards Act or the Families First Coronavirus Response Act; including any amendments thereto or any similar provisions of any federal, state, local or foreign statutory or common law; provided, however, this exclusion shall not apply to any **Claim** for any actual or alleged retaliatory treatment of the **Employee** by the **Insured** on account of the **Employee's** exercise of rights pursuant to any such law for any amounts owed under the Equal Pay Act of 1963.
8. For the purpose of the coverage provided by this endorsement, section V. Limits of Liability and Deductibles D. of the Common Policy Terms and Conditions Section of this **Policy** is amended by the addition of the following:
- V. D. The **Insurer** shall only be liable for the amount of **Costs of Defense** arising from a **Claim** arising from any actual or alleged **Wage and Hour Wrongful Act** which is in excess of the Deductible amount of \$1,000. Such Deductible amount shall be borne by the **Named Insured** with regard to all **Costs of Defense** arising thereunder.
9. For the purpose of the coverage provided by this endorsement, section V. General Conditions Other Insurance of the Employment Practices Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:
- V. a **Wage and Hour Claim** shall be excess of, and shall not contribute with, any other valid and collectible insurance policy (other than a policy that is issued specifically as excess of the insurance afforded by this coverage section); regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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IDAHO
IMPORTANT POLICYHOLDER NOTICE

If you have been unable to contact or obtain satisfaction from your agent or the Insurer, you may contact the Idaho Department of Insurance to obtain information or make a complaint at:

Idaho Department of Insurance Consumer Affairs
700 W State Street, 3rd Floor
PO BOX 83720
Boise ID 83720-003
1-800-721-3272 or 208-334-4250
www.DOI.Idaho.gov

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Excess Benefit Penalty Coverage

In consideration of the premium paid for this **Policy**, the defined term **Damages** in section III. Definitions of the Directors, Officers and Organization Liability Insurance Coverage Section of this **Policy** is deleted in its entirety and replaced with the following:

Damages means:

1. a monetary judgment, award or settlement; or
2. pre-judgment interest and post-judgment interest;

provided, however, **Damages** shall not include:

- a. taxes, civil or criminal fines, sanctions or penalties imposed by law; provided, however, that the **Insurer** will reimburse an **Insured Entity**:
 - i. for any employer share of payroll taxes on any portion of damages or settlements which constitute backpay otherwise considered **Damages**, or
 - ii. for any 10 percent (10%) excess benefit tax penalty assessed by the Internal Revenue Service on any organization manager who participates in an excess benefit transaction, as defined by the Taxpayer Bill of Rights 2. H.R. 2337, up to a maximum limit of \$25,000 per **Policy Period** for all **Insureds**, which amount shall be part of and not in addition to the Limits of Liability set forth in Item 4. of the Declarations;
- b. costs incurred by any **Insured** to make any building or property more accessible or accommodating to any disabled person; or
- c. commissions, bonuses, deferred compensation, profit sharing or severance payments; or
- d. disgorgement or restitution payment by or on behalf of any **Insured**, including disgorgement or restitution of amounts retained, obtained, or acquired by an **Insured** and any settlement payment arising from any actual or alleged amount that an **Insured** improperly retained, obtained, or acquired; or
- e. any matter deemed uninsurable under the law pursuant to which this **Policy** shall be construed.

It is further understood and agreed that the **Insurer** shall not be liable for any **Loss** attributable to, or a part of, the 200 percent (200%) tax penalty assessed by the Internal Revenue Service for failure to correct the award of an excess benefit tax penalty, and the assessment of a 200 percent (200%) tax penalty shall void any coverage extended by this endorsement.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Professional Services Exclusion

In consideration of the premium paid for this **Policy**, section IV. Exclusions of the Directors, Officers and Organization Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:

IV. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving the performance of any professional services for others, and caused by any act, error or omission.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Intellectual Property Exclusion

In consideration of the premium paid for this **Policy** it is amended as follows:

- Section IV. Exclusions of the Directors, Officers and Organization Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:
 - based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged:
 - plagiarism or piracy;
 - infringement of copyright, patent, title or slogan;
 - idea misappropriation; and/or
 - intellectual property rights.
- The defined term **Personal Injury** in Section III. Definitions of the Directors, Officers and Organization Liability Insurance Coverage Section of this **Policy** is deleted in its entirety and replaced with the following:

Personal Injury means any actual or alleged defamation, invasion of privacy, wrongful entry, eviction, false arrest, false imprisonment, or malicious prosecution.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Idaho Amendatory Endorsement

In consideration of the premium paid for this **Policy**, this **Policy** is amended to the extent necessary and supersedes anything to the contrary.

1. Section VIII. B. Application is amended by the addition of the following:
VIII. B. Provided, however, any misrepresentations, omissions, concealment of facts, and incorrect statements shall not prevent recovery under the Policy unless they are:
 1. fraudulent;
 2. material either to the acceptance of the risk, or to the hazard assumed by the **Insurer**; or
 3. the **Insurer** in good faith would either not have issued the Policy, or would not have issued it at the same premium rate or would not have issued the Policy in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss, if the true facts had been made known to the **Insurer** as required by the Application for the Policy or otherwise.
2. Section III. Definitions **Insured Person** paragraph 2. is amended by deleting the following sentence:
"As used herein, spouse shall include a person that is party to a civil union with the **Insured Person** if they establish such civil union under the licensing process established by the applicable jurisdiction."

IMPORTANT NOTICE TO IDAHO POLICYHOLDERS

If you have been unable to contact or obtain satisfaction from your agent or the **Insurer**, you may contact the Idaho Department of Insurance to obtain information or make a complaint at:

Idaho Department of Insurance
Consumer Affairs
700 W State Street, 3rd Floor
PO BOX 83720
Boise ID 83720-003
1-800-721-3272 or 208-334-4250 or www.DOI.Idaho.gov

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Common Policy Terms and Conditions Section

CLAIMS MADE NOTICE FOR POLICY

NOTICE: THIS POLICY PROVIDES COVERAGE ON A CLAIMS MADE AND REPORTED BASIS. SUBJECT TO ITS TERMS, THIS POLICY APPLIES ONLY TO ANY CLAIM FIRST MADE AGAINST THE INSURED AND REPORTED TO THE INSURER DURING THE POLICY PERIOD OR ANY EXTENDED REPORTING PERIOD THAT MAY APPLY.

PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.

In consideration of the payment of the premium, in reliance on all statements in the **Application** and all other information provided to the **Insurer**, and subject to all provisions of this **Policy**, the **Insurer** and **Insureds** agree as follows:

I. Common Policy Terms and Conditions Section

The Common Policy Terms and Conditions Section of this **Policy** shall apply to all **Coverage Sections** and endorsements. Unless stated to the contrary in any **Coverage Section** or endorsement, the terms and conditions of each **Coverage Section** of this **Policy** shall apply only to that **Coverage Section** and shall not apply to any other **Coverage Section** of this **Policy**. If any provision in the Common Policy Terms and Conditions Section is inconsistent or in conflict with the terms and conditions of any **Coverage Section** or endorsement, the terms and conditions of such **Coverage Section** or endorsement shall control for the purposes of that **Coverage Section** or endorsement. Any defined term referenced in this Common Policy Terms and Conditions Section and also defined in a **Coverage Section** or endorsement shall, for the purposes of coverage under that **Coverage Section** or endorsement, have the meaning set forth in that **Coverage Section** or endorsement.

II. Extended Reporting Periods

A. Optional Extended Reporting Period

1. If this **Policy** is cancelled or non-renewed by the **Insurer** for reason other than non-payment of premium, or if the **Named Insured** elects to cancel or non-renew this **Policy**, then the **Named Insured** shall have the right, upon payment of the additional premium described in sub-paragraph 5. below, to purchase an extension of the reporting period of this **Policy** for any **Claim** that is first made against the **Insured** during such period but only with respect to any **Wrongful Act** fully occurring prior to the end of the **Policy Period** and which is otherwise covered by this **Policy**. Such period of time shall be referred to as the Optional Extended Reporting Period.
2. The right to purchase the Optional Extended Reporting Period must be exercised by the **Named Insured** within thirty (30) days of the end of the **Policy Period** by providing written notice to the **Insurer** along with the additional premium.
3. If purchased, the Optional Extended Reporting Period shall begin on the date the **Policy Period** ends.
4. As a condition precedent to the right to purchase the Optional Extended Reporting Period, the total premium for the **Policy** must have been paid and any deductible obligations met by the **Insureds**.
5. The additional premium for the Optional Extended Reporting Period shall be based upon the annual premium for the **Policy** in effect on the date this **Policy** was issued or last renewed and shall be: fifty percent (50%) of such annual premium for one (1) year; seventy five percent (75%) of such annual premium for two (2) years; or one hundred percent (100%) of such annual premium for three (3) years.
6. In the event of a Transaction described in Section VIII. D. of the Common Policy Terms and Conditions Section, the **Named Insured** has the right to purchase a Run-off Period pursuant to the terms of Section II. C. below.
7. The entire premium for the Optional Extended Reporting Period shall be deemed fully earned at its commencement.
8. The Limit of Liability for the Optional Extended Reporting Period shall be part of, and not in addition to, the Limits of Liability stated in Item 5. of the Declarations for this **Policy**.

B. Automatic Extended Reporting Period

1. If the **Named Insured** cancels or if the **Insurer** or the **Named Insured** refuses to renew this **Policy** and the **Named Insured** has not purchased any similar insurance policy(ies) there shall be a sixty (60) day automatic extension of the reporting period of this **Policy** for any **Claim** first made against an **Insured** and reported during such sixty (60) day period after the date upon which the **Policy Period** ends, but only with respect to any **Wrongful Act** fully occurring prior to the end of the **Policy Period** and otherwise covered by this **Policy**. This sixty (60) day period shall be referred to as the Automatic Extended Reporting Period. There shall be no additional premium for the Automatic Extended Reporting Period.
2. The Limit of Liability for the Automatic Extended Reporting Period shall be part of, and not in addition to, the Limits of Liability stated in Item 5. of the Declarations for this **Policy**.

C. Run-Off Period in the Event of a Transaction

1. In the event of a Transaction described in section VIII. D. of the Common Policy Terms and Conditions Section, the **Named Insured** shall have the right, upon payment of the additional premium described in sub-paragraph 5. below, to purchase an extension of the reporting period of this **Policy** for any **Claim** that is first made against the **Insured** during such period but only with respect to any **Wrongful Act** fully occurring prior to the end of the **Policy Period** and which is otherwise covered by this **Policy**. Such period of time shall be referred to as the Run-off Period.
2. The right to purchase the Run-Off Period must be exercised by the **Named Insured** within sixty (60) days of the end of the **Policy Period** by providing written notice to the **Insurer** along with the additional premium.
3. If purchased, the Run-Off Period shall begin on the date the **Policy Period** ends.
4. As a condition precedent to the right to purchase the Run-Off Period, the total premium for the **Policy** must have been paid and any deductible obligations met by the **Insureds**.
5. The additional premium for the Run-Off Period shall be based upon the annual rates for the **Policy** in effect on the date this **Policy** was issued or last renewed and shall be: seventy five percent (75%) of such annual premium for one (1) year; one hundred percent (100%) of such annual premium for two (2) years; one hundred twenty five percent (125%) of such annual premium for three (3) years; or two hundred twenty five percent (225%) of such annual premium for six (6) years.
6. The entire premium for the Run-Off Period shall be deemed fully earned at its commencement.
7. The Limit of Liability for the Run-off Period shall be part of, and not in addition to, the Limits of Liability stated in Item 5. of the Declarations for this **Policy**.

III. Definitions

Whenever printed in boldface type and whether in the singular or plural form in this **Policy**, the following terms shall have the meanings indicated below.

Application means the Application Form(s) and any material submitted therewith.

Claim shall have the meaning set forth in each applicable **Coverage Section** or any applicable endorsement attached to this **Policy**.

Costs of Defense shall have the meaning set forth in each applicable **Coverage Section** or any applicable endorsement attached to this **Policy**.

Coverage Section means, individually or collectively, the purchased **Coverage Sections** listed in Item 3. of the Declarations and attached to this **Policy**.

Damages shall have the meaning set forth in each applicable **Coverage Section** or any applicable endorsement attached to this **Policy**.

Where insurable, **Damages** also means: liquidated, punitive, or exemplary damages, or any multiplied damages award in excess of the amount so multiplied. Such coverage for liquidated, punitive, exemplary or multiplied damages is part of and not in addition to the Limit of Liability, and any payment of such **Damages** shall serve to reduce the Limit of Liability. Only for the purpose of resolving any dispute between the **Insurer** and the **Insured** regarding whether such liquidated, punitive, exemplary or multiplied damages are insurable under this **Policy**, the law of the jurisdiction most favorable to the insurability of those damages shall control, provided that such jurisdiction is where:

1. those damages were awarded or imposed; or
2. any **Wrongful Act** occurred for which such damages were awarded or imposed; or
3. the **Insured** resides, is incorporated or has its principal place of business; or
4. the **Insurer** is incorporated or has its principal place of business.

Domestic Partner means any person who qualifies as a **Domestic Partner** under the provisions of any federal, state or local statute or regulation (whether such status is derived by reason of statutory law, common law or otherwise, of any applicable jurisdiction in the world), or under the terms and provisions of any employee benefit or other program established by the **Named Insured**.

Insured means:

1. any duly elected or appointed director, trustee or officer of an **Insured Entity**, or
2. any **Insured Entity**;

unless modified by an applicable **Coverage Section** or any applicable endorsement attached to this **Policy**.

Insured Entity means the **Named Insured** and any **Subsidiary**.

Insured Person shall have the meaning set forth in each applicable **Coverage Section** or any applicable endorsement attached to this **Policy**.

This **Policy** shall cover **Costs of Defense** and **Damages** arising from a **Claim** made against:

1. the heirs, executors, administrators, and legal representatives of an **Insured Person** in the event of death, incapacity or bankruptcy, but solely with respect to the liability of an **Insured Person** as otherwise covered by this **Policy**; or
2. the lawful spouse or **Domestic Partner** of an **Insured Person** for a **Claim** arising solely out of his or her status as the spouse or **Domestic Partner** of an **Insured Person**, including a **Claim** that seeks damages recoverable from marital community property, property jointly held by the **Insured Person** and the spouse or **Domestic Partner**, or property transferred from the **Insured Person** to the spouse or **Domestic Partner**. As used herein, spouse shall include a person that is party to a civil union with the **Insured Person** if they establish such civil union under the licensing process established by the applicable jurisdiction. However, this extension shall not afford coverage for any **Claim** for any **Wrongful Act** of the spouse or **Domestic Partner**, but shall apply only to **Claims** arising out of any **Wrongful Act** of an **Insured Person**.

Insurer means the entity issuing this **Policy** as listed on the Declarations Page.

Loss means **Damages** and **Costs of Defense**.

Named Insured means the entity designated in Item 1. of the Declarations.

Policy means, collectively, the Declarations, the Common Policy Terms and Conditions Section, the **Coverage Sections**, and the **Application**.

Policy Period means the period of time from the inception date shown in Item 2. of the Declarations to the earlier of the expiration date shown in Item 2. of the Declarations or the effective date of cancellation of this **Policy**.

Related Wrongful Acts means **Wrongful Acts** which are the same as, related or continuous or that are logically or causally connected by reason of any common fact, circumstance, situation, transaction, casualty, event or decision.

Subsidiary means an entity which qualifies as a nonprofit organization under Section 501(c)(3), (c)(4), (c)(6), (c)(7), (c)(8), (c)(10), or (c)(13) of the Internal Revenue Code of 1986, including amendments thereto and which the **Named Insured** has or controls the right to elect or appoint more than 50 percent of the Board of Directors (or other governing body) on or before the inception of the **Policy Period**.

The term **Subsidiary** shall not mean any political committee organized pursuant to Section 432 of the Federal Election Campaign Act of 1971, including amendments thereto.

In all events, coverage as is afforded with respect to a **Claim** made against a **Subsidiary** shall only apply for **Wrongful Acts** committed or allegedly committed after the effective time that such **Subsidiary** became a **Subsidiary** and prior to the time that such **Subsidiary** ceased to be a **Subsidiary**.

An entity ceases to be a **Subsidiary** when the **Named Insured** ceases to control the right to elect or appoint more than 50 percent of the Board of Directors (or other governing body), or ceases to continue as an ongoing entity.

If during the **Policy Period** the **Insured Entity** forms or acquires a **Subsidiary**, this **Policy** shall apply:

1. Automatically for a **Subsidiary**, whose assets are less than thirty five percent (35%) of the total consolidated assets of the **Insured Entity** as of the **Policy** inception date; or
2. If the assets of such **Subsidiary** are equal to or greater than thirty five percent (35%) of the total consolidated assets of the **Insured Entity** as of the **Policy** inception date, then only upon the condition that within ninety (90) days of it becoming a **Subsidiary**, the **Named Insured** provides the **Insurer** in writing with full particulars of the new **Subsidiary** and agrees to any additional premium and/or amendment of the provisions of this **Policy** required by the **Insurer** related to such new **Subsidiary**. Further, coverage as shall be afforded to the new **Subsidiary** is conditioned upon the **Named Insured** paying when due any additional premium required by the **Insurer** relating to such new **Subsidiary**.

Wrongful Act shall have the meaning set forth in each applicable **Coverage Section** or any applicable endorsement attached to this **Policy**.

IV. Exclusions

The **Insurer** shall not be liable to make any payment for **Loss** in connection with a **Claim** made against any **Insured**:

- A. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged nuclear reaction, radiation or contamination, regardless of cause;
- B. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged seepage, pollution or contamination of any kind;
- C. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving:
 1. any **Wrongful Act** alleged in any claim which has been reported, or in any circumstance of which notice has been given, prior to the **Policy Period** under any other policy; or
 2. any other **Wrongful Act** whenever occurring, which together with a **Wrongful Act** which has been the subject of such claim or notice, would constitute **Related Wrongful Acts**.

V. Limits of Liability and Deductibles

A. Limits of Liability

1. Costs of Defense Reduce the Limit of Liability

If **Costs of Defense** Reduce the Limit of Liability is purchased, as stated in Item 4. A. of the Declarations, then **Costs of Defense** are part of **Loss** and payment thereof will reduce the Limit of Liability available to pay **Damages**. **Costs of Defense** are not payable by the **Insurer** in addition to any applicable Limit of Liability stated in Item 5. of the Declarations. The **Insurer's** liability for all **Loss** arising out of all **Claims** first made against the **Insureds** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. Notice of Claims of this **Policy** shall not exceed the amount(s) stated in Item 5. of the Declarations for the purchased **Coverage Section(s)**.

2. Costs of Defense in Addition to the Limit of Liability

If **Costs of Defense** in Addition to the Limit of Liability is purchased, as stated in Item 4. B. of the Declarations, **Costs of Defense** shall be separate and in addition to the applicable Limits of Liability stated in Item 5. of the Declarations. Payment of **Costs of Defense** shall not reduce the applicable Limits of Liability stated in Item 5. of the Declarations.

The **Insurer's** liability for all **Damages** arising out of all **Claims** first made against the **Insureds** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. Notice of Claims of this **Policy** shall not exceed the amount(s) stated in Item 5. of the Declarations for the purchased **Coverage Section(s)**.

In the event the applicable Limit(s) of Liability stated in Item 5. of the Declarations is exhausted by payment of **Damages**, or has been tendered to or on behalf of the **Insured**, then any and all obligations of the **Insurer** hereunder shall be deemed to be completely fulfilled and extinguished.

3. Shared Policy Limit of Liability

If Shared Policy Limit of Liability for all **Coverage Sections** is purchased, as stated in Item 5. A. of the Declarations, then the **Insurer's** liability for all **Claims** covered by the **Coverage Sections** purchased shall not exceed the Aggregate Limit of Liability stated in Item 5. A. of the Declarations.

4. Separate Limit of Liability

If Separate Limit of Liability for each **Coverage Section** is purchased, as stated in Item 5. B. of the Declarations, then the **Insurer's** liability for all **Claims** covered by each **Coverage Section** purchased shall not exceed the Separate Aggregate Limit of Liability stated in Item 5. B. of the Declarations.

B. Exhaustion of Limit of Liability

1. In the event the applicable Limit of Liability stated in Item 5. of the Declarations, or any applicable sub-limit stated in this **Policy**, is exhausted by payment of **Costs of Defense** and/or **Damages**, or has been offered or tendered to, or on behalf of, the **Insured**, or to a court of competent jurisdiction, then any and all obligations of the **Insurer** hereunder shall be deemed to be completely fulfilled and extinguished.

2. Unless otherwise stated, all Limits of Liability for this **Policy**, including any sub-limit(s), will apply in the aggregate to all covered **Claims**. In no event shall the **Insurer** be liable to make any payment for **Costs of Defense** and/or **Damages** in excess of the Limit(s) of Liability stated in Item 5. of the Declarations or any applicable sub-limit stated in this **Policy**.

3. The **Insurer** is not obligated to investigate, defend, pay or settle, or continue to investigate, defend, pay or settle a **Claim** after the applicable limit of the **Insurer's** liability has been exhausted by payment of **Damages** or **Costs of Defense** or by any combination thereof or after the **Insurer** has deposited the remaining available Limit of Liability into a court of competent jurisdiction. In such case, the **Insurer** shall have the right to withdraw from the further investigation, defense, payment or settlement of such **Claim** by tendering control of said investigation, defense or settlement of the **Claim** to the **Insured**.

C. Multiple Coverage Sections or Endorsements

In the event a **Claim** is covered under more than one **Coverage Section** or endorsement and such **Coverage Sections** or endorsements are not subject to a Shared Policy Limit of Liability, the **Insurer** shall pay covered **Damages** based on the terms of each applicable **Coverage Section** or endorsement and allocated to each applicable **Coverage Section** or endorsement on the basis of the relative legal and financial exposures of the parties pursuant to the applicable **Coverage Sections** or endorsements, as determined by the **Insurer**. The **Insurer** shall pay covered **Costs of Defense** based on the terms of each applicable **Coverage Section** or endorsement, to be distributed equally against all applicable **Coverage Sections** or endorsements. Any **Costs of Defense** and/or **Damages** paid shall reduce the applicable sub-limit or Limit of Liability of such **Coverage Sections** or endorsements. In no event shall the **Insurer** be liable to pay **Costs of Defense** and/or **Damages** for such **Claim** in excess of the largest Limit of Liability available under the **Coverage Sections** or endorsements applicable to such **Claim**.

D. Deductibles

1. The **Insurer** shall only be liable for the amount of **Loss** arising from a **Claim** which is in excess of the applicable Deductible amount stated in Item 6. of the Declarations. Such Deductible amount shall be borne by the **Named Insured** and shall apply to each and every **Claim**. In the event a **Claim** is covered under more than one **Coverage Section** or endorsement, the largest applicable Deductible shall apply. If the **Named Insured** fails to pay the Deductible, then all **Insureds** shall be jointly and severally obligated to pay the Deductible.
2. If the **Insurer** advances any **Loss** within the applicable Deductible, the **Named Insured** shall, upon written demand, reimburse the **Insurer** for such amounts within thirty (30) days. Any funds so advanced by the **Insurer** at its option, shall serve to reduce the Limit of Liability to the extent that they are not repaid to the **Insurer**. If the **Insurer** brings suit to collect the Deductible, then the **Insured** responsible to pay the applicable Deductible also shall pay the legal fees, costs and expenses incurred by the **Insurer** to collect the Deductible.

VI. Defense, Cooperation and Settlements

A. Consent

No **Insured** shall admit or assume liability, enter into any settlement agreement, make any offer of settlement or compromise, stipulate to any judgment, agree to arbitration, or incur **Costs of Defense** without the **Insurer's** prior written consent. The **Insurer's** consent shall not be unreasonably withheld, provided that the **Insurer** shall be entitled to full information and all particulars it may request in order to reach a decision regarding such consent. Any **Costs of Defense** and/or **Damages** incurred and settlements agreed to prior to the **Insurer** giving its consent shall not be covered hereunder.

B. Defense of Claims

1. The **Insurer** shall have the right and the duty to defend any **Claims** which are covered by this **Policy**. The **Insurer** shall have the right to select defense counsel. The **Insurer** has no obligation to provide **Costs of Defense** for any **Claim** not covered by this **Policy**.
2. The **Insurer** has no obligation to pay any amounts incurred by any **Insured** in any way involving the interpretation or applicability of the terms and conditions of this **Policy**.

C. Cooperation

Each **Insured** shall cooperate with the **Insurer** in the defense and settlement of any **Claim**, and in enforcing any right of contribution or indemnity against any person or organization that may be liable to the **Insured**, at no cost to the **Insurer**. Upon the request of the **Insurer**, the **Insured** shall submit to examination and interrogation, under oath if required by a representative of the **Insurer**, and shall attend hearings, depositions and trials, assist in effecting settlement, securing and giving evidence, obtaining the attendance of witnesses, as well as giving written statements to the **Insurer's** representatives, and meeting with such representatives for purposes of investigation or defense, all without charge to the **Insurer**.

D. Settlements

The **Insurer** shall not settle any **Claim** without the **Named Insured's** consent. If, however, the **Named Insured** shall refuse to consent to any settlement recommended by the **Insurer**, which is acceptable to the claimant, and shall elect to contest the **Claim**, or continue any civil, criminal, administrative, or arbitration proceedings in connection with such **Claim**, then the **Insurer's** liability for the **Claim** shall be the amount for which the **Claim** could have been settled, including **Costs of Defense** incurred up to the date of such refusal, and eighty percent (80%) of such **Loss** excess of the amount for which the **Claim** could have been settled. It is a condition of this insurance that the remaining twenty percent (20%) of such **Loss** shall be borne by the **Insureds** at their own risk. Such amounts are subject to the provisions of section V. of the Common Policy Terms and Conditions Section of this **Policy**.

E. Allocation

If a **Claim** made against an **Insured** pursuant to any **Coverage Sections** contains both covered and uncovered matters, then the **Named Insured** and the **Insurer** will allocate any amount incurred with respect to such **Claim** as follows:

1. one hundred percent (100%) of **Costs of Defense** incurred will constitute covered **Loss**; and
2. **Damages** will be allocated on the basis of the relative legal and financial exposures of the parties as to covered and uncovered matters pursuant to the applicable **Coverage Sections**.

If a **Claim** made against an **Insured** pursuant to any **Coverage Sections** contains both covered and uncovered parties, then the **Named Insured** and the **Insurer** will allocate any amounts incurred on behalf of any uncovered parties with respect to such **Claim** on the basis of the relative legal and financial exposures of the parties of such covered and uncovered parties pursuant to the applicable **Coverage Sections**.

The **Insurer** shall not be liable under this **Policy** for the portion of such amount allocated to non-covered **Loss**. In the event that the parties cannot reach a mutually agreeable allocation, the **Insurer** will determine the appropriate allocation at its discretion.

VII. Notice of Claims

A. Notice of Claim

As a condition precedent to their rights under this **Policy**, an **Insured** shall give the **Insurer** written notice of any **Claim** first made against the **Insureds** during the **Policy Period**, as soon as practicable, but in no event later than sixty (60) days after such **Claim** is first made.

B. Notice of Circumstance

If during the **Policy Period** or any Extended Reporting Period or Run-off Period that may apply, the **Insureds** become aware of any fact, circumstance or situation which may reasonably be expected to give rise to a **Claim** being made against any **Insured** and the **Insured** gives written notice to the **Insurer**, as soon as practicable (but prior to the expiration of or cancellation of the **Policy**), of:

1. the specific fact, circumstance or situation, with full details as to dates, persons, and entities involved; and
2. the injury or damages which may result therefrom; and
3. the circumstances by which the **Insured** first became aware thereof;

then any **Claim** subsequently made arising out of such fact, circumstance or situation shall be deemed to have been made when notice was first given to the **Insurer**.

C. Related Wrongful Acts

All **Claims** based upon or arising out of the same **Wrongful Act** or any **Related Wrongful Acts**, or one or more in a series of any similar, repeated or continuous **Wrongful Acts** or **Related Wrongful Acts**, shall be considered a single **Claim**. Each **Claim** shall be deemed to be first made at the earliest of the following times:

1. when the earliest **Claim** arising out of such **Wrongful Act** or **Related Wrongful Acts** is first made, or
2. when notice pursuant to section VII. B. above of a fact, circumstance or situation giving rise to such **Claim** is given.

D. Information and Cooperation

In addition to furnishing the notice as provided in sections VII. A. and VII. B. above, the **Insureds** shall give the **Insurer** such information and cooperation as it may reasonably require and shall, as soon as practicable, furnish the **Insurer** with copies of reports, investigations, pleadings and other papers in connection therewith.

VIII. General Conditions

A. Cancellation or Non-Renewal of Policy

1. Cancellation

- a. The **Named Insured** may cancel this **Policy** at any time by sending written notice to the **Insurer**.
- b. The **Insurer** may not cancel this **Policy** except for non-payment of any premium when due.
- c. The **Insurer** shall provide at least twenty (20) days written notice to the **Named Insured** prior to any cancellation for non-payment of any premium and such cancellation shall not be effective less than twenty (20) days after such notice is mailed.
- d. If this **Policy** is cancelled by the **Named Insured**, the **Insurer** shall retain the customary short rate proportion of the premium herein. Payment or tender of any unearned premium by the **Insurer** shall not be a condition precedent to the effectiveness of cancellation, but such payment shall be made as soon as practicable.

2. Nonrenewal

If the **Insurer** decides not to renew this **Policy**, the **Insurer** shall provide written notice to the **Named Insured** at least sixty (60) days prior to the end of the **Policy Period**. The notice shall include the reason for such non-renewal.

3. Notice

The **Insurer** shall send all notices required under this Section VIII.A. by first-class mail to the **Named Insured** at the address last known to the **Insurer**. Proof of mailing of such notice by the United States Postal Service certificate of mailing shall be sufficient proof of notice.

B. Application

The **Application** is the basis of this **Policy** and is incorporated in and constitutes a part of this **Policy**. Any material submitted with the **Application(s)** shall be maintained on file with the **Insurer** and shall be deemed to be attached hereto as if physically attached. It is agreed by the **Insureds** that the statements in the **Application** are their representations, that they are material and that this **Policy** is issued in reliance upon the truth of such representations. With respect to such statements and representations, no knowledge or information possessed by any **Insureds** shall be imputed to any other **Insureds**.

If any person or persons knew as of the **Policy** inception date that such declarations and statements contained in the **Application(s)** were untrue, inaccurate or incomplete, then this **Policy** shall not apply to that person or persons.

However, if the signer of the **Application** knew as of the **Policy** inception date that such representations and statements contained in the **Application(s)** were untrue, inaccurate or incomplete, then this **Policy** shall not apply to that person or persons and the **Insured Entity**.

C. Action Against the Insurer

No action shall lie against the **Insurer** unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this **Policy**, and the amount of the **Insureds'** obligation to pay shall have been finally determined either by judgment against the **Insureds** after actual trial or by written agreement of the **Insureds**, the claimant and the **Insurer**.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this **Policy** to the extent of the insurance afforded by this **Policy**. No person or organization shall have any right under this **Policy** to join the **Insurer** as party to any action against the **Insureds** to determine the **Insureds'** liability, nor shall the **Insurer** be impleaded by the **Insureds** or their legal representatives.

D. Change in Control of the Named Insured

1. If during this **Policy Period** the **Named Insured**:
 - a. ceases to continue as an ongoing entity; or
 - b. sells all or substantially all of its assets, or consolidates, or merges with or into any other person, group, entity or organization; who then controls the right to elect or appoint more than 50 percent of the Board of Directors or other governing body of the **Named Insured**;

(either of the above events herein referred to as "Transaction")

then, this **Policy** shall continue in full force and effect as to any **Wrongful Acts** fully occurring prior to the Transaction, but there shall be no coverage afforded by any provision of this **Policy** for any actual or alleged **Wrongful Acts** occurring after the Transaction.
2. This **Policy** may not be cancelled following a Transaction and the entire premium for this **Policy** shall be deemed fully earned as of the effective date of the Transaction.
3. The **Named Insured** shall give the **Insurer** written notice of the Transaction as soon as practicable but not later than sixty (60) days after the Transaction and prior to the expiration of the **Policy Period**. In the event of a Transaction, the **Named Insured** shall have the right to purchase the Run-Off Period described in section II. C. of this Common Policy Terms and Conditions Section.

E. Subrogation

In the event of any payment under this **Policy**, the **Insurer** shall be subrogated to the extent of such payment to all the **Insureds'** rights of recovery thereof, and the **Insureds** shall execute all papers required and shall do everything that may be necessary to secure such rights including the execution of such documents necessary to enable the **Insurer** to effectively bring suit in the name of the **Insureds**. In no event, however, shall the **Insurer** exercise its rights of subrogation against an **Insured** under this **Policy** unless such **Insured** has been convicted of a criminal act, or been judicially determined to have committed a deliberate fraudulent act, or obtained any profit or advantage to which such **Insured** was not legally entitled.

F. Assignment

This **Policy** and any and all rights hereunder are not assignable without the written consent of the **Insurer**.

G. Entire Agreement

By acceptance of this **Policy**, the **Insureds** and the **Insurer** agree that this **Policy** and any written endorsements attached hereto constitute the entire agreement between the parties.

H. Representation by Named Insured

It is agreed that the **Named Insured** shall act on behalf of its **Subsidiaries** and all **Insureds** with respect to the giving and receiving of notices, the payment of premiums and the receiving of any return premiums that may become due under this **Policy**, the receipt and acceptance of any endorsements issued to form a part of this **Policy** and the exercising or declining to exercise any right to an Extended Reporting Period or Run-off Period.

I. Coverage Territory

This **Policy** applies to any **Wrongful Act** taking place anywhere in the world. In the event that the **Insured Entity** operates outside the United States, then the term **Insured Person** also means those titles, positions or capacities in such foreign **Insured Entity** which is equivalent to the position of **Insured Person** in an entity incorporated and/or formed within the United States.

J. Bankruptcy

Bankruptcy or insolvency of the **Insureds** or of their estates shall not relieve the **Insurer** of any of its obligations hereunder. In the event a liquidation or reorganization proceeding is commenced by or against the **Insured Entity** pursuant to the United States Bankruptcy Code, including amendments thereto, or any similar state or local law. The **Insured Entity** and the **Insured Persons** hereby: (1) agree to waive and release any automatic stay or injunction which may apply in such proceeding to this **Policy** or its proceeds under such Bankruptcy Code or law; and (2) agree not to oppose or object to any efforts by the **Insurer**, the **Insured Entity** or any **Insured Persons** to obtain relief from any such stay or injunction.

K. Trade and Economic Sanctions

This **Policy** does not provide coverage for **Insureds**, transactions or that part of **Damages** or **Costs of Defense** that is uninsurable under the laws or regulations of the United States concerning trade or economic sanctions.

NonProfit ExecShield®

Directors, Officers and Organization Liability Insurance Coverage Section

CLAIMS MADE NOTICE FOR POLICY

NOTICE: THIS POLICY PROVIDES COVERAGE ON A CLAIMS MADE AND REPORTED BASIS. SUBJECT TO ITS TERMS, THIS POLICY APPLIES ONLY TO ANY CLAIM FIRST MADE AGAINST THE INSURED AND REPORTED TO THE INSURER DURING THE POLICY PERIOD OR ANY EXTENDED REPORTING PERIOD THAT MAY APPLY.

PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.

In consideration of the payment of the premium, in reliance on all statements in the **Application** and all other information provided to the **Insurer**, and subject to all provisions of this **Policy**, the **Insurer** and **Insureds** agree as follows:

I. Insuring Agreements

Directors, Officers and Organization Liability Coverage

- A. This **Policy** shall pay on behalf of the **Insureds** all **Costs of Defense** and/or **Damages** up to the Limit of Liability applicable to this coverage section arising from any **Claim** first made against the **Insureds** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. of the Common Policy Terms and Conditions Section of this **Policy**, for any actual or alleged **Wrongful Act** committed subsequent to the **Prior Acts Date**; except and to the extent that the **Insured Entity** has indemnified the **Insured Persons**.
- B. This **Policy** shall pay on behalf of the **Insured Entity** all **Costs of Defense** and/or **Damages** up to the Limit of Liability applicable to this coverage section arising from any **Claim** that is first made against the **Insured Persons** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. of the Common Policy Terms and Conditions Section of this **Policy**, for any actual or alleged **Wrongful Act** committed subsequent to the **Prior Acts Date**; but only to the extent that the **Insured Entity** has indemnified the **Insured Persons** for such **Costs of Defense** and/or **Damages** as permitted by law.
- C. This **Policy** shall pay on behalf of the **Insured Entity** all **Costs of Defense** and/or **Damages** up to the Limit of Liability applicable to this coverage section arising from any **Claim** that is first made against the **Insured Entity** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. of the Common Policy Terms and Conditions Section of this **Policy**, for any actual or alleged **Wrongful Act** committed subsequent to the **Prior Acts Date**.

II. Priority of Payments

In the event of **Costs of Defense** and/or **Damages** arising from any **Claim** for which payment is due under the provisions of this coverage section, then the **Insurer** shall:

1. first, pay such non-indemnifiable **Costs of Defense** and/or **Damages** for which coverage is provided under Insuring Agreement I. A. of this coverage section; and
2. then, with respect to whatever remaining amount of the applicable Limit of Liability stated in Item 5. of the Declarations is available after payment of such non-indemnifiable **Costs of Defense** and/or **Damages**, at the written request of the Chief Executive Officer of the **Named Insured**, either pay or withhold payment of such other **Costs of Defense** and/or **Damages** for which coverage is provided under this coverage section.

In the event the **Insurer** withholds payment pursuant to sub-paragraph 2. above, then the **Insurer** shall at such time and in such manner as shall be set forth in written instructions of the Chief Executive Officer of the **Named Insured**, remit such payment to the **Named Insured** or directly to the **Insured Persons**.

III. Definitions

In addition to the Definitions listed in section III. of the Common Policy Terms and Conditions Section, whenever printed in boldface type, and whether in the singular or plural form, in this coverage section the following terms shall have the meanings indicated below.

Claim means:

1. a written demand for monetary or non-monetary relief including, but not limited to, a civil, criminal, administrative, or arbitration proceeding arising from a **Wrongful Act**;
2. a civil, criminal, administrative, or arbitration proceeding for monetary or non-monetary relief filed against an **Insured** arising from a **Wrongful Act** which is commenced by: (a) service of a complaint or similar pleading; (b) return of an indictment, information or similar document; or (c) receipt or filing of a notice of charges; or

3. a written request made by a claimant to the **Named Insured** to toll or waive the statute of limitations for any **Wrongful Act**;

provided, however, the term **Claim** shall not include any grievance or arbitration subject to a collective bargaining agreement with respect to Insuring Agreement I. C. of this coverage section. A **Claim** shall be deemed to have been first made at the time notice of the **Claim** is first received by any **Insured**.

Costs of Defense means reasonable and necessary fees, costs and expenses (including premiums for any appeal bond, attachment bond or similar bond, but without any obligation to apply for or furnish any such bond) resulting solely from the investigation, adjustment, defense and appeal of a covered **Claim** against the **Insureds**, but excluding salaries, wages, overhead or benefit expenses associated with any **Insured**, or any amount covered by the duty to defend obligation of any other insurer.

Damages means:

1. a monetary judgment, award or settlement; or
2. pre-judgment interest and post-judgment interest;

provided, however, **Damages** shall not include:

- a. taxes, civil or criminal fines, sanctions or penalties imposed by law; or
- b. costs incurred by any **Insured** to make any building or property more accessible or accommodating to any disabled person; or
- c. commissions, bonuses, deferred compensation, profit sharing or severance payments; or
- d. disgorgement or restitution payment by or on behalf of any **Insured**, including disgorgement or restitution of amounts retained, obtained, or acquired by an **Insured** and any settlement payment arising from any actual or alleged amount that an **Insured** improperly retained, obtained, or acquired; or
- e. any matter deemed uninsurable under the law pursuant to which this **Policy** shall be construed.

Insured Person means any past, present or future duly elected or appointed directors, trustees, officers, employees (including part time, seasonal and temporary individuals), volunteers, or committee or staff members of the **Insured Entity**. An independent contractor is not an **Insured Person** under this coverage section.

Insured means any **Insured Person** or any **Insured Entity**.

Loss means **Damages** and **Costs of Defense**.

Outside Entity means:

1. a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code of 1986, including amendments thereto; or
2. any other entity organized for a religious or charitable purpose under any nonprofit organization act or statute; or
3. any other entity, partnership, joint venture or other organization listed by endorsement to this **Policy**.

Personal Injury means any actual or alleged defamation, invasion of privacy, wrongful entry, eviction, false arrest, false imprisonment, malicious prosecution, infringement of copyright or trademark, unauthorized use of title, plagiarism, or misappropriation of ideas.

Prior Acts Date means the date stated in Item 8. i. of the Declarations.

Wrongful Act means any actual or alleged breach of duty, neglect, error, misstatement, misleading statement, omission or act, including **Personal Injury**, by:

1. any **Insured Person** in their respective capacities as such, or any matter claimed against them by reason of their status as **Insured Persons** with the **Insured Entity**;
2. any **Insured Person** arising out of their serving as a director, officer, trustee, or governor of an **Outside Entity** in such capacity, but only if such service is at the specific request or direction of the **Insured Entity**; or
3. the **Insured Entity**.

IV. Exclusions

In addition to the Exclusions listed in section IV. of the Common Policy Terms and Conditions Section, the **Insurer** shall not be liable to make any payment for **Loss** in connection with a **Claim** made against any **Insured**:

- A. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving the actual or alleged gaining of any profit or advantage to which an **Insured** was not legally entitled; provided, however, this exclusion shall not apply unless a judgment or other final adjudication adverse to any of the **Insureds** in such **Claim** shall establish that such **Insureds** gained such profit or advantage to which an **Insured** was not legally entitled;
- B. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged criminal or deliberate fraudulent act; provided, however, this exclusion shall not apply unless a judgment or other final adjudication adverse to any of the **Insureds** in such **Claim** shall establish that such **Insureds** committed such criminal or deliberate fraudulent act;

- C. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged payments to an **Insured** of any remuneration without the previous approval of the governing bodies of the **Insured Entity**, which payment without such previous approval shall be held to have been illegal; provided, however, this exclusion shall not apply unless a judgment or other final adjudication adverse to any of the **Insureds** in such **Claim** shall establish that such **Insureds** received such payments;

Solely with respect to Exclusions A., B., and C. of this coverage section, the **Insurer** will provide a defense for any such **Claims**, without any liability by the **Insurer** to pay such sums that any **Insured** shall become legally obligated to pay as **Damages**.

- D. for:
1. physical damage to or destruction of any tangible property, including the loss of use thereof; or
 2. bodily injury, sickness, disease, death, assault or battery of any person;
- E. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged violation of the Employee Retirement Income Security Act of 1974, including amendments thereto;
- F. by, on behalf of, or in the right of any **Insured** in any capacity; provided, however, this exclusion does not apply to:
1. any **Claim** that is a derivative action brought or maintained on behalf of the **Insured Entity**, and only if such **Claim** is instigated and continued totally independent of, and totally without the solicitation of, or assistance of, or participation of, or intervention of any **Insured**; or
 2. any **Claim** by any **Insured Person** pursuant to any federal or state whistleblower protection statute or any regulation promulgated thereunder; provided, however, this exception does not apply to any **Claim** arising from any actual or potential employment relationship with the **Insured Entity**;
- G. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any **Wrongful Act** of an **Insured Person** serving in the capacity as a director, officers, trustee, employee, member or governor of any other entity other than an **Insured Entity** or an **Outside Entity**, or by reason of their status as a director, officer, trustee, employee, member or governor of such other entity;
- H. for any **Wrongful Act** arising out of an **Insured** serving as a director, officer, trustee, employee, member or governor of an **Outside Entity**:
1. if such **Claim** is brought by the **Outside Entity** or any of its directors or officers, or by any security holder of the **Outside Entity**, whether directly or derivatively, unless such security holder's **Claim** is instigated and continued totally independent of, and totally without the solicitation of, or assistance of, or participation of, or intervention of the **Outside Entity**, any of its directors or officers, or any **Insured**; or
 2. if such **Wrongful Act** occurred prior to the inception date of the first Nonprofit Directors, Officers and Organization Liability Insurance Policy issued by the **Insurer** to the **Named Insured**, which has been continuously renewed and maintained in effect prior to the inception of this **Policy Period**; or
 3. to the extent such **Insured** is indemnified for such **Costs of Defense** and **Damages** by the **Outside Entity**, and/or to the extent that there is coverage in whole or in part under any policy issued to or for the benefit of any **Outside Entity** or its directors or officers, then this **Policy** shall apply only to **Loss** excess over such indemnification and insurance(if applicable);
- I. based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any actual or alleged employment-related torts, including but not limited to: failure to hire; wrongful dismissal; wrongful discharge; wrongful termination; retaliation; harassment; discrimination; violation of civil rights; or violation of any federal, state, local or foreign laws, whether statutory or common law, concerning discrimination or harassment;
- J. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any federal, state, local or foreign wage and hour laws, whether statutory or common law, including, without limitation, the Fair Labor Standards Act;
- K. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged breach of any oral or written contract or agreement; provided, however, this exclusion shall not apply to the extent that an **Insured Entity** would have been liable in the absence of the contract or agreement.

The **Wrongful Act** of an **Insured** shall not be imputed to any other **Insured** for the purpose of determining the applicability of the Exclusions.

V. Other Insurance

Unless specifically stated otherwise, the coverage afforded under this coverage section shall apply only as excess over any other valid and collectible insurance, unless such other insurance is specifically written as excess insurance over the Separate Limit of Liability or Shared Limit of Liability applicable to this coverage section. This coverage section shall be excess of any other valid and collectible insurance pursuant to which any other insurer has a duty to defend a **Claim** for which this coverage section may be obligated to pay **Costs of Defense** and/or **Damages**.

NonProfit ExecShield®

Employment Practices Liability Insurance Coverage Section

CLAIMS MADE NOTICE FOR POLICY

NOTICE: THIS POLICY PROVIDES COVERAGE ON A CLAIMS MADE AND REPORTED BASIS. SUBJECT TO ITS TERMS, THIS POLICY APPLIES ONLY TO ANY CLAIM FIRST MADE AGAINST THE INSUREDS AND REPORTED TO THE INSURER DURING THE POLICY PERIOD OR ANY EXTENDED REPORTING PERIOD THAT MAY APPLY.

PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.

In consideration of the payment of the premium, in reliance on all statements in the **Application** and all other information provided to the **Insurer**, and subject to all provisions of this **Policy**, the **Insurer** and **Insureds** agree as follows:

I. Insuring Agreements

A. Wrongful Employment Acts Coverage

This **Policy** shall pay on behalf of the **Insureds** all **Costs of Defense** and/or **Damages** up to the Limit of Liability applicable to this coverage section arising from any **Employment Claim** first made against the **Insureds** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. of the Common Policy Terms and Conditions Section of this **Policy**, for any actual or alleged **Wrongful Employment Act** committed subsequent to the **Prior Acts Date**.

B. Third Party Wrongful Acts Coverage

If purchased as indicated in Item 3. ii. of the Declarations, this **Policy** shall pay on behalf of the **Insureds** all **Costs of Defense** and/or **Damages** up to the Limit of Liability applicable to this coverage section arising from any **Third Party Claim** that is first made against the **Insureds** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. of the Common Policy Terms and Conditions Section of this **Policy**, for any actual or alleged **Third Party Wrongful Act** committed subsequent to the **Prior Acts Date**.

II. Automatic Extended Reporting Period for Former Directors or Officers

In addition to section II. Extended Reporting Periods of the Common Policy Terms and Conditions Section, the following shall apply:

1. If the **Named Insured** cancels or refuses to renew this coverage section and the **Named Insured** has not purchased any similar insurance policy(ies), Optional Extended Reporting Period or Run-Off Period from the **Insurer** or any other insurance carrier, there shall be a three (3) year automatic extension of the reporting period for this coverage section for any **Claim** that is first made against any **Former Director or Officer** during such three (3) year period but only with respect to any **Wrongful Act** of any **Former Director or Officer** fully occurring prior to the end of the **Policy Period** and which is otherwise covered by this coverage section. Such three (3) year period of time shall be referred to as the Automatic Extended Reporting Period for Former Directors and Officers. There shall be no additional premium for the Automatic Extended Reporting Period for Former Directors and Officers.
2. The Limit of Liability for the Automatic Extended Reporting Period for Former Directors and Officers shall be part of, and not in addition to, the Limit of Liability stated in Item 5. of the Declarations for this coverage section.

III. Definitions

In addition to the Definitions listed in section III. of the Common Policy Terms and Conditions Section, whenever printed in boldface type, and whether in the singular or plural form, in this coverage section the following terms shall have the meanings indicated below.

Claim means:

1. an **Employment Claim**; or
2. if purchased as indicated in Item 3. ii. of the Declarations, a **Third Party Claim**.

A **Claim** shall be deemed to have been first made at the time notice of the **Claim** is first received by any **Insured**.

Claimant means:

1. a past or present **Employee** of, or applicant for employment with, an **Insured Entity**; or
2. a governmental entity or agency, including the Equal Employment Opportunity Commission or similar federal, state or local or foreign agency, when acting on behalf of or for the benefit of a past or present **Employee** or applicant for employment with an **Insured Entity**.

Costs of Defense means reasonable and necessary fees, costs and expenses (including premiums for any appeal bond, attachment bond or similar bond, but without any obligation to apply for or furnish any such bond) resulting solely from the investigation, adjustment, defense and appeal of a covered **Claim** against the **Insureds**, but excluding salaries, wages, overhead or benefit expenses associated with any **Insured**, or any amount covered by the duty to defend obligation of any other insurer.

Damages means:

1. a monetary judgment, award or settlement, including front pay, back pay, emotional distress; or
2. pre-judgment interest and post-judgment interest;

provided, however, **Damages** shall not include:

- a. taxes (provided, however, that the **Insurer** will reimburse an **Insured Entity** for any employer share of payroll taxes on any portion of damages or settlements which constitute back pay otherwise considered **Damages**), civil or criminal fines, or penalties imposed by law; or
- b. payment of insurance, disability, pension, health or other plan benefits claimed by or on behalf of any former or current **Employee**, or that an **Employee** would have been entitled to as an **Employee** had the **Insured Entity** provided the **Employee** with a continuation of insurance; or
- c. costs incurred by any **Insured** to make any building or property more accessible or accommodating to any disabled person; or
- d. commissions, bonuses, profit sharing or severance payments, unpaid wages, or amounts due pursuant to any federal, state, local or foreign wage and hour laws whether statutory or common law, including without limitation, the Fair Labor Standards Act, including any amendments thereto, and/or any payroll policies, practices and procedures, including the reimbursement of claimed business expenses; or
- e. future wages or benefits of any reinstated **Employee** or wages or benefits associated with the continued employment of an **Employee**; or
- f. any matter deemed uninsurable under the law pursuant to which this **Policy** is construed.

Employee means an individual whose labor or service is engaged by and directed by an **Insured Entity**, including any: part-time, volunteer, intern, leased, seasonal or temporary individual; or committee or staff member. An independent contractor is not an **Employee**. An individual's employment status shall be determined as of the date of the **Wrongful Act**.

Employment Claim means:

1. a written demand for monetary or non-monetary relief, including but not limited to, any demand for mediation, arbitration or any other alternative dispute resolution process, brought by or on behalf of a **Claimant**, arising from a **Wrongful Employment Act**;
2. a civil, administrative, regulatory investigation or arbitration proceeding brought by or on behalf of a **Claimant**, arising from a **Wrongful Employment Act**; or
3. a written request made by a **Claimant** to an **Insured** to toll or waive the statute of limitations for any **Wrongful Employment Act**;

provided, however, the term **Employment Claim** shall not include any grievance or arbitration based upon, arising out of, directly or indirectly resulting from, or in consequence of, or in any way involving a collective bargaining agreement.

Former Director or Officer means any duly elected or appointed director, trustee or officer of an **Insured Entity** solely while acting within such capacity for an **Insured Entity**; who did not serve as a duly elected or appointed director or officer at the time of the cancellation or non-renewal of this **Policy**.

Harassment means unwelcome sexual or non-sexual advances, requests for sexual or non-sexual favors or other verbal, visual or physical conduct of a sexual or non-sexual nature that:

1. are explicitly or implicitly made a condition of employment;
2. are used as a basis for employment decisions; or
3. create a work environment that interferes with performance.

Harassment also means assault or battery, but only if related to a charge of sexual harassment.

Insured means any **Insured Person** or any **Insured Entity**.

Insured Person means:

1. any past, present or future duly elected or appointed director, trustee or officer of an **Insured Entity** while acting solely within the course and scope of employment with an **Insured Entity**;
2. an **Employee** while acting solely within the course and scope of employment with an **Insured Entity**; or
3. an independent contractor for an **Insured Entity**, but only if the **Insured Entity** provides indemnification to such individual in the same manner as that provided to the **Insured Entity's** employees.

Loss means **Damages** and **Costs of Defense**.

Prior Acts Date means the date stated in Item 8. ii. of the Declarations.

Retaliation means any actual or alleged retaliatory act of an **Insured** alleged to be in response to the actual or attempted exercise by an **Employee** or applicant for employment with the **Insured Entity**, of any right that such **Employee** or applicant has under law, including without limitation, any of the following activities:

1. the disclosure or threat of disclosure by an **Employee** to a superior or to any governmental agency of any act by an **Insured** which act is alleged to be a violation of any federal, state, local or foreign law, common or statutory, or any rule or regulation promulgated thereunder;
2. the exercise of rights under workers' compensation laws, the Family and Medical Leave Act, the Americans with Disabilities Act or any other law relating to employee rights;
3. the filing of any claim under the Federal False Claims Act or any other federal, state, local or foreign whistle-blower law;
4. strikes of an **Employee** or applicant, or any legally-protected work stoppage or slowdown; or
5. assisting, cooperating or testifying in any proceeding or investigation into whether an **Insured** violated any federal, state, local or foreign law, common or statutory, or any rule or regulation promulgated thereunder.

Third Party Claim means:

1. a written demand for monetary or non-monetary relief, including but not limited to, any demand for mediation, arbitration or any other alternative dispute resolution process; arising from a **Third Party Wrongful Act**, which is solely brought and maintained by or on behalf of a **Third Party Claimant** against an **Insured**;
2. a civil proceeding which is: (a) brought against an **Insured**; and (b) arising from a **Third Party Wrongful Act**; and (c) which is solely brought and maintained by or on behalf of a **Third Party Claimant** against whom a **Third Party Wrongful Act** is alleged to have been committed; or
3. a written request made by or on behalf of a **Third Party Claimant** to an **Insured** to toll or waive the statute of limitations for any **Third Party Wrongful Act**.

Third Party Claimant means any natural person(s) who is a client, customer, vendor, service provider or other business invitee of any **Insured Entity**, other than an **Employee** or applicant for employment with the **Insured Entity**.

Third Party Wrongful Act means any actual or alleged:

1. discrimination prohibited by applicable law;
2. harassment on the basis of race, color, religion, age, gender, disability, pregnancy, national origin, sexual orientation, gender identity or expression, or marital status; or
3. harassment in the form of unwelcome sexual advances, requests for sexual favors or other verbal, visual or physical conduct of a sexual nature;

committed by an **Insured**.

Workplace Bullying means verbal, written or visual intimidation, harassment or threats by an **Insured** while acting solely within the course and scope of employment with an **Insured Entity**, including but not limited to, an **Insured's** use of social media to intimidate, harass or threaten.

Wrongful Act means:

1. a **Wrongful Employment Act**;
2. if purchased as indicated in Item 3. ii. of the Declarations, a **Third Party Wrongful Act**.

Wrongful Employment Act means any actual or alleged:

1. wrongful dismissal, discharge or termination of employment (either actual or constructive), including breach of an implied agreement to employ;
2. **Harassment**;
3. harassment on the basis of race, color, religion, age, gender, disability, pregnancy, national origin, sexual orientation, gender identity or expression, or marital status (including but not limited to: **Workplace Bullying**);
4. discrimination (including, but not limited to, discrimination based upon age, gender, gender identity or expression, race, color, national origin, religion, sexual orientation or preference, genetic information, pregnancy, marital status, military status or disability or any other basis prohibited by law);
5. **Retaliation**;
6. employment-related misrepresentation;
7. employment-related libel, slander, humiliation or defamation or invasion of privacy;
8. false arrest or false imprisonment;
9. wrongful failure to employ or promote;
10. wrongful deprivation of career opportunity, wrongful demotion or negligent evaluation, including the giving of negative or defamatory statements in connection with an employee reference;

11. wrongful discipline;
 12. failure to grant tenure; or
 13. negligent hiring, retention, training or supervision, infliction of emotional distress or mental anguish, failure to provide or enforce adequate or consistent employment-related corporate policies and procedures, or violation of an individual's civil rights;
- committed by an **Insured**.

IV. Exclusions

In addition to the Exclusions listed in section IV. of the Common Policy Terms and Conditions Section, the **Insurer** shall not be liable to make any payment for **Loss** in connection with a **Claim** made against any **Insured**:

- A. for:
 1. damage to or destruction of any tangible property, including the loss of use thereof, or
 2. bodily injury, sickness, disease, and death; provided, however, solely with respect to a **Claim** for a **Wrongful Employment Act**, this exclusion shall not apply to: emotional distress, mental anguish, defamation, invasion of privacy or humiliation;
- B. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged violation of the Employee Retirement Income Security Act of 1974, including amendments thereto; or any similar provisions of state statutory law or common law;
- C. for any actual or alleged breach of any oral or written contract or agreement; or for any amounts owed pursuant to an oral or written contract or agreement; whether brought as breach of contract, misrepresentation or otherwise;
- D. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged violation of the Worker's Adjustment and Retraining Notification Act, the Consolidated Omnibus Budget Reconciliation Act of 1985, the Occupational Safety and Health Act, the National Labor Relations Act, or the Health Insurance Portability and Accountability Act of 1996, including amendments thereto, or any similar provisions of any federal, state, local or foreign statutory or common law; provided, however, this exclusion shall not apply to any **Claim** for any actual or alleged retaliatory treatment of an **Employee** by the **Insured** on account of the **Employee's** exercise of rights pursuant to any such law;
- E. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged obligations under any workers' compensation, social security, disability benefits, or unemployment compensation law, including amendments thereto, or any similar provisions of any federal, state, local or foreign statutory or common law; provided, however, this exclusion shall not apply to any **Claim** for any actual or alleged retaliatory treatment of an **Employee** by the **Insured** on account of the **Employee's** exercise of rights pursuant to any such law;
- F. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged violations of any federal, state, local or foreign wage and hour laws, whether statutory or common law, including, without limitation, the Fair Labor Standards Act including any amendments thereto; provided, however, this exclusion shall not apply to any **Claim** for any amounts owed under the Equal Pay Act of 1963, or any similar provisions of any federal, state, local or foreign law prohibiting pay discrimination or for any actual or alleged retaliatory treatment of an **Employee** by the **Insured** on account of the **Employee's** exercise of rights pursuant to any such law or amounts owed under the Equal Pay Act of 1963.

V. General Conditions

Other Insurance

Unless specifically stated otherwise, the coverage afforded under this coverage section for:

1. an **Employment Claim** shall be primary to any other valid and collectible insurance policy (including coverage afforded by any other **Coverage Section**), provided that with respect to that portion of an **Employment Claim** made against any leased or temporary employee or independent contractor, **Costs of Defense** and/or **Damages** payable on behalf of such leased or temporary employee or independent contractor under this coverage section shall be excess of, and shall not contribute with, any other valid and collectible policy (other than a policy that is issued specifically as excess of the insurance afforded by this coverage section), regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise; and
2. a **Third Party Claim** shall be excess of, and shall not contribute with, any other valid and collectible insurance policy (other than a policy that is issued specifically as excess of the insurance afforded by this coverage section); regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.



EMPLOYMENT PRACTICES LIABILITY RISK MANAGEMENT RESOURCES

THE HR HOTLINE

844.4HR.LINE (844.447.5463) | Monday - Friday | 8:00am - 5:00pm | Central

As your insurance provider, Berkley Select has partnered with Zywave to offer a hotline staffed by HR professionals to answer your employment law questions. In addition, these professionals will refer you to relevant content that can help you execute on their expertise.

The day your policy is active, you have access to the HR hotline. Please have your company name and insurance policy number available when you call.

Topics you can ask about include, but are not limited to:

- Discipline and terminations
- Employee benefits
- Employee relations
- Federal compliance
- Investigations
- Leaves of absence
- Performance management
- Recruiting and hiring
- State employment law
- Wage and hour issues
- Workers' compensation

THE SELF SERVICE PORTAL

berkleyselect.portal.zywave.com

As an Employment Practices Liability policyholder, you have access to the Self Service portal. An invitation to set up your account will be sent to the email provided on your application. This comprehensive resource tool is designed to help you understand, prevent, and manage potential workplace-related issues. Some of those valuable resources include:

STATE-SPECIFIC HANDBOOK AND POLICY BUILDER

Can be used to create a complete handbook or a single policy. All pre-set policies are drafted to be compliant with federal and state guidelines.

JOB DESCRIPTION BUILDER

This customizable tool can create job descriptions for various industries and skill levels.

WEBINARS AND ONLINE TRAINING COURSES

Topics for these courses include, but are not limited to: Sexual Harassment, Discrimination Prevention, and HIPAA Compliance. Courses can be assigned to supervisors or employees. CE credits are available for HR personnel.

ADA COMPLIANCE TOOLS

View a checklist and fact sheet regarding organization-wide ADA compliance. Access free, online tools that evaluate website accessibility. Recommendations help maintain online ADA compliance.

EMPLOYMENT PRACTICES LIABILITY RISK MANAGEMENT RESOURCES

WAYS TO ACCESS THE SELF SERVICE PORTAL

Invitation

Once your policy is effective, be on the lookout for an email coming from the Zywave team to activate your account.

Online

Visit www.berkleyselect.com/risk-management-solutions/ and proceed to the Employment Practices Risk Management section

WAYS TO REPORT A CLAIM

ONLINE	EMAIL	FAX	MAIL
www.berkleyselect.com/claims/report-a-claim/	newclaim@berkleyselect.com	312.207.1933	Berkley Select Claims Department 550 W. Jackson Boulevard Suite 500 Chicago, IL 60661

BERKLEY SELECT & ZYWAVE

Partners You Can Count On

Berkley Select specializes in executive and professional liability insurance. Berkley Select underwrites on behalf of Berkley member insurance companies that are rated A+ (Superior), Financial Size Category XV by AM Best Company. As part of Berkley Select's mission to provide industry-leading service to our policyholders, we have partnered with Zywave, an EPL risk management expert. Zywave delivers strategic and client-centric engagement solutions designed to assist with HR, employment law, and ongoing employee issues.



**OPERATING AGREEMENT BETWEEN THE FRIENDS OF
IDAHO PUBLIC TELEVISION, INC.**

AND

**IDAHO PUBLIC TELEVISION, AN ENTITY OF THE STATE
BOARD OF EDUCATION OF THE STATE OF IDAHO**



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OPERATING AGREEMENT

**ARTICLE I
PURPOSE**

The Idaho State Board of Education ("SBOE"), acting pursuant to its constitutional authority and authority otherwise delegated by the State of Idaho has adopted policies regarding gifts to public entities and affiliated foundations with the express objective of preserving and encouraging the operation of recognized foundations associated with the institutions, schools and entities under the Board's governance. Idaho Public Television ("IPTV") is one such entity under the SBOE's governance. The Friends of Idaho Public Television, Inc. ("Friends of IPTV") maintains an endowment and operating funds, hereby referred to as "Endowment" affiliated with IPTV, and otherwise enjoys an ongoing working relationship with IPTV intended to enhance and promote the mission of IPTV in the state of Idaho and throughout its service area. IPTV and the Friends of IPTV adopt this Operating Agreement (the "Agreement") with the intent of complying with the SBOE policies regarding gifts and affiliated foundations and support groups in a manner consistent with State and Federal law and regulations, including applicable Federal Communications Commission ("FCC") regulations.

**ARTICLE II
INSTITUTIONAL RESOURCES AND SERVICES**

A. Administrative and Staff Support

IPTV shall provide to the Friends of IPTV support staff and administrative services for the general purpose of facilitating the organization and conduct of regular and special board and committee meetings, including administrative support for the preparation of agendas, gathering and distribution of materials in advance of such meetings, minute keeping and organization for such meetings and logistical support including the organization of travel arrangements and accommodations when required. All out of pocket costs for such administrative services shall be borne by the Friends of IPTV, which shall either pay these items directly or reimburse IPTV upon presentation of receipt therefor.

1. Specific Administrative Support Designations

IPTV will provide the specific administrative and support staff services by the employees in the capacities detailed on Schedule I to this Agreement.

2. Restriction on IPTV Responsibility

No employee of IPTV in a key administrative or policy making capacity (including, but not limited to the General Manager of IPTV) shall be permitted to have responsibility or authority for Friends of IPTV policy making, financial oversight, spending authority, or investment decisions unless specifically approved in writing by the Friends of IPTV and the Audit Committee of the State Board of Education. The Friends of IPTV maintain no employees.

3. Limitation on Functions of General Manager with Respect to the Friends of IPTV

Unless specifically agreed in writing by the Friends of IPTV and the Audit Committee of the State Board of Education, the responsibilities of any function performed by the General Manager of IPTV with respect to the Friends of IPTV or by any IPTV employee relating to a key

administrative or policy making capacity shall be limited to the coordination of institution and affiliated endowment fundraising efforts, and the provision of administrative support to endowment fundraising activities.

B. Other Institution Resources and Services

IPTV will provide to the Friends of IPTV the following resources and services through the employees in the capacities identified in Article II.A.1 including the following: i. Access via reporting functions to IPTV's financial systems to receive, disburse, and account for funds held (with respect to transactions processed through IPTV's financial system, the Friends of IPTV shall comply with the institution's financial and administrative policies and procedures manuals); ii. Accounting services, to include cash disbursements and receipts, accounts receivable and payable, bank reconciliation, reporting and analysis, auditing, payroll, and budgeting; iii. Investment, management, insurance, benefits administration, and similar services; iv. Development services, encompassing research, information systems, donor records, communications, and special events.

C. Use of Facilities and Equipment

IPTV will provide to the Friends of IPTV meeting rooms and other logistical support for the conduct of regular and special meetings of the Friends of IPTV board and committees, including the use of telecommunications equipment such as video microwave interconnect and teleconferencing facilities.

D. Terms for Institution Cost Recovery

Except as provided herein, IPTV does not intend to recover from the Friends of IPTV any costs associated with the provision of personnel, use of facilities or equipment. All personnel, facilities and equipment provided by third parties at an expense to IPTV will be billed to the Friends of IPTV for reimbursement. No payments shall be made directly from the Friends of IPTV directly to IPTV employees in connection with resources or services provided pursuant to this Agreement.

ARTICLE III OPERATION OF ENDOWMENT

A. The Friends of IPTV Endowment

The Friends of IPTV maintains an endowment fund (the "IPTV Endowment") recognized by the Internal Revenue Service as a tax exempt entity pursuant to section 501(c)(3) of the Internal Revenue Code. All operations of the Friends of IPTV regarding its IPTV Endowment shall comply with the SBOE's general guidelines for foundations found at SBOE Policies and Procedures Section V.E.2.b. as adopted effective July 1, 2008.

B. Guidelines for Receiving, Depositing, Disbursing and Accounting for All Funds, Assets, or Liabilities of the Endowment

The Friends of IPTV maintains guidelines for the IPTV Endowment regarding the receipt, deposit, disbursement and accounting for all fund assets and liabilities consistent with generally accepted accounting principles (GAAP) and the Governmental Accounting Standards Board (GASB). These policies provide that when endowment funds are transferred to IPTV, institution officials into whose department or program endowment funds are transferred shall be informed by the Friends of IPTV of the restrictions, if any, on such funds and shall be

responsible both to account for them in accordance with institution policies and procedures, Federal Communications Commission regulations and requirements, and to notify the Friends of IPTV on a timely basis regarding the use of such funds.

C. Procedures for IPTV Endowment Expenditures and Financial Transactions

The Friends of IPTV will comply with its written procedures described in Schedule II hereto for all expenditures and financial transactions with IPTV, including the disbursement or disposition of any endowment funds. Except as specifically agreed in writing by the Friends of IPTV, no person with signature authority shall be an IPTV employee in a key administrative or policy making capacity (including, but not limited to, the General Manager or an institution vice president or equivalent position).

D. Liability Insurance Coverage

The Friends of IPTV maintains comprehensive general liability insurance including D&O coverage for the acts and omissions of its Board members, officers and employees as described in the policy attached as Schedule III.

E. Endowment Investment Policies

The Friends of IPTV maintains a written Endowment Fund Statement of Investment Policy and Fiduciary Management, which is revised from time to time at the direction of the Friends of IPTV board and its standing endowment committee. The current investment policy is attached as Schedule IV. All investment policies adopted by the Friends of IPTV board and endowment committee are designed to and shall be conducted in accordance with prudent, sound practice to ensure that gift assets are protected and enhanced, and that a reasonable return is achieved, with due regard for the fiduciary responsibilities of the Friends of IPTV board. Moreover, all such investments are and must be consistent with the terms of the gift instrument.

F. Separation of Funds

At no time shall the funds of the IPTV Endowment and IPTV be commingled but to the contrary shall at all times be kept separate in accounts reflecting the ownership of the respective entities.

G. Organizational Structure of the Friends of IPTV

The Friends of IPTV, Inc. is a corporation duly organized and validly existing under the nonprofit corporation act of the State of Idaho. Copies of the Articles of Incorporation and Bylaws of the Friends of IPTV, Inc., are attached hereto as Schedule V.

ARTICLE IV IPTV ENDOWMENT RELATIONSHIPS WITH IPTV

At all times the relationship between the Friends of IPTV and IPTV shall be arms-length and conducted with recognition of the fiduciary duties of the Friends of IPTV to its constituents, and of the IPTV Endowment with regard to State, Federal and FCC laws and regulations.

A. Access to Friends of IPTV Endowment Books and Records

IPTV may access the endowment books and records of the Friends of IPTV solely for the purpose of carrying out the administrative assistance described in Article II.A.1 of this Agreement.

B. IPTV Input to Friends of IPTV Endowment Payout Operating Budget and Capital Expenditures

The General Manager of IPTV, or other institution chief executive officer or designee, shall provide recommendations to the Friends of IPTV board for the proposed expenditures from the endowment payout prior to their approval by the Friends of IPTV board. In no event shall these recommendations be deemed binding or controlling on the actions of the Friends of IPTV board.

C. Supplemental Compensation to Employees of IPTV

The Friends of IPTV shall make no supplemental compensation to any employee of IPTV.

**ARTICLE V
AUDITS AND REPORTING****A. Procedure for Conducting Audits**

The Friends of IPTV shall annually conduct an audit consistent with GAAP and GASB requirements through the services of the State Legislative Auditor. No individual designated by the State Legislative Auditor shall be a member of the board of the Friends of IPTV. The annual audit shall be a full scope audit, performed in accordance with GAAP. The Friends of IPTV shall annually engage an independent certified public accountant or audit firm to conduct a full-scope audit of its financial statements in accordance with Generally Accepted Accounting Principles (GAAP) and the Governmental Accounting Standards Board (GASB). No individual employed by or affiliated with the engaged audit firm shall serve as a member or director of the Board of the Friends of IPTV. The annual audit shall be comprehensive and performed in accordance with GAAP standards.

B. Reporting to IPTV General Manager

The Friends of IPTV shall no less frequently than annually report directly in writing to the IPTV General Manager or his designee the following items: Regular financial audit report; Annual report of transfers made to the institution, summarized by department; Annual report of unrestricted funds received, and of unrestricted funds available for use in that fiscal year; A list of Friends of IPTV officers, directors, and employees; Confirmation that no payments were made to any IPTV employee for supplemental compensation or otherwise; A list of all State and Federal contracts and grants managed by the Friends of IPTV; a report of the Friends of IPTV's major activities; a report of each real estate purchase or material capital lease, investment, or financing arrangement entered into during the preceding fiscal year of the Friends of IPTV for the benefit of the institution; a report of any actual litigation involving the Friends of IPTV during its fiscal year, as well as legal counsel used by the Friends of IPTV for any purpose during such year, including a discussion of any potential or threatened litigation involving the Friends of IPTV or the IPTV Endowment.

**ARTICLE VI
CONFLICTS OF INTEREST AND CODE OF ETHICS AND CONDUCT**

A copy of the Friends of IPTV Conflicts of Interest policy is found under Schedule VI.

ARTICLE VII
GENERAL PROVISIONS

A. Notices

All notices and other communications ("Notices") shall be in writing and may be delivered (i) in person, with the date of notice being the date of personal delivery, (ii) by United States Mail, postage prepaid for certified or registered mail, return receipt requested, with the date of notice being the date of the postmark on the return receipt, (iii) by fax, with confirmation of the transmittal of the fax and a copy of the fax deposited on the same day in the United States Mail, with the date of notice being the date of the fax, (iv) by e-mail, with confirmation of sending of the e-mail and a copy of the e-mail deposited on the same day in the United States Mail, with the date of notice being the date of the e-mail, (v) by nationally recognized delivery service such as Federal Express, with the date of notice being the date of delivery as shown on the confirmation provided by the delivery service.

B. Severability

The invalidity of any portion of this Agreement shall not affect the validity of any other portion of this Agreement.

C. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

D. Governing Law

This Agreement shall be governed by the substantive laws of the State of Idaho and Federal law and regulations consistent with Federal Communication Commission guidelines applicable to licensees of public television broadcast services.

IDAHO PUBLIC TELEVISION

Dated: 2 1 2, 2022

By:

Jeff Tucker
General Manager

FRIENDS OF IDAHO PUBLIC TELEVISION, INC.

Dated: 2 1 2, 2022

By:

—eraig Mead s
President

SCHEDULE I

Services Provided by Idaho Public Television to the Friends of Idaho Public Television, Inc.

Administrative Support:

Provide administrative support to Friends Board of Directors relating to their activities of compliance with state, federal and private guidelines and regulations.

General Clerical Support:

Provide general clerical support for board and committee meetings.

Technical:

Provide meeting space and technical support for board and committee meetings.

Financial:

Provide support for fund raising, deposits and payment of related expenses including board member travel and meeting expenses.

Coordinate and provide administrative support for the annual audit as conducted by the Legislative Auditor.

Maintain financial records as required by state, federal and private entities.

Other:

Provide additional support services as mutually agreed upon outside these parameters.

SCHEDULE II

Procedures for IPTV Endowment Expenditures and Financial Transactions

1. The Friends of IPTV will establish a budget plan on an annual basis for the unrestricted Operating funds. The budget will include any distributions authorized to be made from the Endowment for the fiscal year.
2. Once a budget has been established and authorized by the Friends of IPTV, the Fiscal Affairs manager of IPTV, or designee providing administrative assistance as provided in Article II.A.1, shall have authority to authorize and make expenditures to the extent they fall within the budget and are not unusual in nature. Items that arise during the year under \$100,000 that are not budgeted or that vary significantly from the budget will require approval of the President of the Friends of IPTV. Unexpected costs above \$100,000 will require approval from the Executive Committee of the Friends of IPTV.
3. Quarterly financial reports will be provided to the Treasurer and Executive Committee within 30 days of the close of the period. Detailed budget reports will be provided to the Board of Directors at each board meeting. Budget variances of 10% or more will be referenced on budget reports.
4. All checks will require two signatures.

Carolina Casualty Insurance Company

NonProfit ExecShield®

Management Liability Insurance Policy

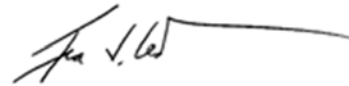
This Policy consists of:

- Declarations Page
- Common Policy Terms and Conditions Section
- Applicable Coverage Sections
- Endorsements

In witness whereof, the **Insurer** has caused this **Policy** to be signed by its President and Chief Executive Officer and Secretary.



President and Chief Executive Officer



Secretary

Service Office:

550 W. Jackson Blvd., Suite 500
Chicago, IL 60661
Toll Free (844) 465-6256

Fax (312) 207-1933

Administrative Office:

5011 Gate Parkway, Building 200, Suite 200
Jacksonville, FL 32256
Telephone (480) 951-0905

Fax (480) 951-9730



NP 23302-0417

CAROLINA CASUALTY INSURANCE COMPANY

A Stock Insurance Company

NonProfit ExecShield®

Management Liability Insurance Policy

NOTICE: THIS POLICY PROVIDES COVERAGE ON A CLAIMS MADE AND REPORTED BASIS SUBJECT TO ITS TERMS. THIS POLICY APPLIES ONLY TO ANY CLAIM FIRST MADE AGAINST THE INSUREDS AND REPORTED TO THE INSURER DURING THE POLICY PERIOD OR ANY EXTENDED REPORTING PERIOD THAT MAY APPLY.

PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.

IF INDICATED IN ITEM 4. A. BELOW, THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES OR SETTLEMENTS SHALL BE REDUCED AND MAY BE COMPLETELY EXHAUSTED BY AMOUNTS INCURRED AS LEGAL DEFENSE COSTS. THE INSURER SHALL NOT BE LIABLE FOR LEGAL COSTS OF DEFENSE OR FOR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT AFTER EXHAUSTION OF THE LIMIT OF LIABILITY.

Whenever printed in this Declarations Page, the boldface type terms shall have the same meanings as indicated in the **Policy**.

Item 1. Name and Address of Named Insured: **Policy Number: DCP-898834-P13**

Friends of Idaho Public Television, Inc.
1455 North Orchard Street
Boise, ID 83706

Item 2. Policy Period: From April 29, 2021 (inception date) to April 29, 2022 (expiration date)
(Both dates at 12:01 a.m. Standard Time at the address of the **Named Insured**)

Item 3. Purchased Coverage Sections:

- | | | |
|---|---|--|
| i. Directors, Officers and Organization Liability Insurance Coverage Section: | ☒ Yes | ☐ No |
| ii. Employment Practices Liability Insurance Coverage Section: | ☒ Yes | ☐ No |
| Third Party Wrongful Act Liability Coverage included: | ☒ Yes | ☐ No |
| iii. Fiduciary Liability Insurance Coverage Section: | ☐ Yes | ☒ No |

Item 4. Cost of Defense for the Policy Period:

- ☐ A. **Costs of Defense** Reduce the Limit of Liability in Item 5. below
- ☒ B. **Costs of Defense** in Addition the Limit of Liability in Item 5. below

Item 5. Limits of Liability for the Policy Period:

- A. Shared Policy Aggregate Limit of Liability for all **Coverage Sections** purchased as indicated above. Not Applicable

OR

- B. Separate Aggregate Limit of Liability for each **Coverage Sections**:
- | | |
|---|----------------|
| 1. Directors, Officers and Organization Liability Insurance Coverage Section: | \$1,000,000 |
| 2. Employment Practices Liability Insurance Coverage Section: | \$1,000,000 |
| 3. Fiduciary Liability Insurance Coverage Section: | Not Applicable |

Item 6. Applicable Deductibles:		Summary of Charges	
		Premium	\$1,379.00
		CRC Broker fee	\$200.00
		Total	\$1,579.00
		Zip Code 83706	
i.	Directors, Officers and Organization Liability Insurance Coverage Section:		
A.	Insured Person Non-Indemnifiable:	\$0	
B.	Insured Person Indemnifiable:	\$0	
C.	Insured Entity Liability:	\$500	
ii.	Employment Practices Liability Insurance Coverage Section:	\$1,000	
iii.	Fiduciary Liability Insurance Coverage Section:	Not Applicable	
Item 7.	Premium:	\$1,379	
Terrorism coverage is included for \$0			
Item 8.	Prior Acts Dates:		
i.	Directors, Officers and Organization Liability Insurance Coverage Section Prior Acts Date:	Not Applicable	
ii.	Employment Practices Liability Insurance Coverage Section Prior Acts Date:	Not Applicable	
iii.	Fiduciary Liability Insurance Coverage Section Prior Acts Date:	Not Purchased	
Item 9.	Forms and Endorsements attached at inception:		
Policy Form: NP 23300- rev0417 / CT 22330- rev0417; EPL 23300- rev0417			
1	265-	0220	Policyholder Disclosure – Notice of Terrorism Insurance Coverage
2	266-	0220	Cap on Losses from Certified Acts of Terrorism
3	701-CR-	0419	CLAIM REPORTING PROCEDURES
4	CT 230903-	rev0417	Identity Theft Expense Supplemental Coverage
5	CT 230906-	rev0417	Kidnap Expense Supplemental Coverage
6	CT 230913-	rev0417	Failed Donation Claim Supplemental Coverage
7	CT 232041-	rev0417	Modification to Automatic Extended Reporting Period
8	CT 233093-	0417	Acquisition or Creation of a Subsidiary
9	CT 234322-	rev0417	Interested Party Exclusion
10	CT 235014-	rev0417	Waiver of Deductible if No Liability
11	EPL 233630-	rev0417	Costs of Defense Sub-Limit for Wage and Hour Wrongful Acts
12	ID-PHN-	1019	IDAHO POLICY HOLDER NOTICE
13	NP 233045-	rev0417	Excess Benefit Penalty Coverage
14	NP 234354-	rev0417	Professional Services Exclusion
15	NP 234400-	rev0417	Intellectual Property Exclusion
16	NP-ID-	0417	Idaho Amendatory Endorsement
Item 10.	Notice to the Insurer as provided in section VII. A. and B. shall be sent to:	All other notices to be given to the Insurer shall be sent to:	
Berkley Select Claims Department on behalf of Carolina Casualty Insurance Company 550 W. Jackson Blvd, Suite 500, Chicago, IL 60661 Toll Free: (844) 465-6256 Fax: (312) 207-1933 Email: newclaim@berkleyselect.com		Berkley Select on behalf of Carolina Casualty Insurance Company 550 W. Jackson Blvd, Suite 500, Chicago, IL 60661 Toll Free: (800) 446-2100	

The Nonprofit Management Liability Insurance **Policy** shall constitute the contract between the **Insureds** and the **Insurer**.

NOVEMBER 20, 2025

Carolina Casualty Insurance Company

POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM INSURANCE COVERAGE

Coverage for acts of terrorism, as defined in the Terrorism Risk Insurance Act, as amended, (the "Act"), is included in your policy. As defined in Section 102(1) of the Act: The term "act of terrorism" means any act that is certified by the Secretary of the Treasury—in consultation with the Secretary of Homeland Security, and the Attorney General of the United States—to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion. Under your coverage, any losses resulting from certified acts of terrorism may be partially reimbursed by the United States Government under a formula established by the Act. However, your policy may contain other exclusions which might affect your coverage, such as an exclusion for nuclear events. Under the formula, the United States Government generally reimburses 80% beginning on January 1, 2020, of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage. The Act contains a \$100 billion cap that limits U.S. Government reimbursement as well as insurers' liability for losses resulting from certified acts of terrorism when the amount of such losses exceeds \$100 billion in any one calendar year. If the aggregate insured losses for all insurers exceed \$100 billion, your coverage may be reduced.

The portion of your annual premium that is attributable to coverage for acts of terrorism as defined in the Act is \$0, and does not include any charges for the portion of losses covered by the United States government under the Act.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

Insured Friends of Idaho Public Television, Inc.		Policy Number DCP-898834-P13
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Carolina Casualty Insurance Company

CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM

This endorsement modifies insurance provided under the following:

DIRECTORS, OFFICERS AND CORPORATE LIABILITY INSURANCE COVERAGE SECTION

DIRECTORS, OFFICERS AND ORGANIZATION LIABILITY INSURANCE COVERAGE SECTION

FIDUCIARY LIABILITY INSURANCE COVERAGE SECTION

EXCESS INSURANCE POLICY

GENERAL LIABILITY COVERAGE PART

COMMUNITY ASSOCIATION LEADERS PROFESSIONAL LIABILITY INSURANCE POLICY – DIRECTORS AND OFFICERS LIABILITY COVERAGE

EMERGENCY MEDICAL SERVICES GENERAL LIABILITY COVERAGE PART

In consideration of the premium paid for this Policy, it is amended as follows:

If aggregate insured losses attributable to terrorist acts certified under the federal Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and the insurer has met its insurer deductible under the Terrorism Risk Insurance Act, the Insurer shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in consultation with the Secretary of Homeland Security and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for any loss that is otherwise excluded under this Policy.

Includes copyrighted material of Insurance Services Office, Inc., with its permission.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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BERKLEY SELECT

**CLAIM REPORTING
PROCEDURES**

In the event of an incident which may result in a claim, an actual claim or your receipt of suit papers, please follow the procedures outlined below:

NOTICE OF EACH INCIDENT, CLAIM OR SUIT SHOULD IMMEDIATELY BE REPORTED TO:

BERKLEY SELECT CLAIMS DEPARTMENT
on behalf of Carolina Casualty Insurance Company
550 W. Jackson Blvd., Suite 500
Chicago, IL 60661
Fax: (312) 207-1933
E-mail: newclaim@berkleyselect.com
Online: www.berkleyselect.com/claims/report-claim

TO ENABLE US TO RESPOND MORE QUICKLY AND EFFICIENTLY, please fax or email any pertinent details of the claim directly to our attention.

PLEASE BE SURE TO INCLUDE:

- Your Name, Address and Phone Number;
- Your Policy Number and the Policy Period;
- A written narrative of the circumstances surrounding the claim or potential claim;
- Names and addresses of the claimant;
- Details of the any underlying claim, including current status and the amount in controversy or relief demanded.
- If you are submitting the report by mail or fax, please also include any letters of demand or any legal papers which you have received regarding the claim.

Please provide your professional liability insurance agent a copy of all claim notices and correspondence sent to Berkley Select.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

Insured Friends of Idaho Public Television, Inc.		Policy Number DCP-898834-P13
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NOVEMBER 20, 2025

Carolina Casualty Insurance Company

Identity Theft Expense Supplemental Coverage

In consideration of the premium paid for this **Policy**, it is amended by the addition of the following:

1. **Identity Theft Expense Coverage**

The **Insurer** shall reimburse any present director, trustee or officer of the **Named Insured** up to a maximum aggregate limit of \$10,000 per **Policy Period**, for **Identity Theft Expense** incurred in specific response to an **Identity Theft** first discovered and reported to the **Insurer** during the **Policy Period** pursuant to paragraph 4. below, provided; however, that the **Identity Theft** began to occur after the inception date of the first Nonprofit Management Liability Insurance Policy issued by the **Insurer** to the **Named Insured**.

No Deductible shall apply to this coverage and any payments made hereunder shall not reduce the Limits of Liability stated in Item 5. of the Declarations.

2. Solely for purpose of the coverage provided by this endorsement for **Identity Theft Expense**, section III. Definitions of the Common Policy Terms and Conditions Section of this Policy is amended by the addition of the following:

Identity Theft means the act of knowingly transferring or using, without lawful authority, personally identifiable information of a present director, trustee or officer (or spouse thereof) of the **Named Insured** with the intent to commit, aid, or abet any unlawful activity that constitutes a violation of federal law or a felony under any applicable state or local law.

Identity Theft Expense means:

1. the expenses incurred to notarize affidavits or similar documents attesting to fraud required by financial institutions or similar credit grantors or credit agencies, or
2. the expenses incurred for certified mail to law enforcement agencies, credit agencies, financial institutions or similar credit grantors, or
3. loan application fees for re-applying for a loan or loans when the original application is rejected solely because the lender received incorrect credit information.

3. Solely for purpose of the coverage provided by this endorsement for **Identity Theft Expense**, section V. Limits of Liability and Deductibles of the Common Policy Terms and Conditions Section of this Policy is amended by the addition of the following:

V. If any **Identity Theft Expense** is covered under this endorsement and under any other **Coverage Section** or endorsement to this **Policy**, the largest applicable limit shall apply. In no event shall multiple limits apply to coverage which may be duplicated within this **Policy**. Additionally, if this **Policy** and any other policy or coverage issued by the **Insurer** or any affiliate of the **Insurer**, apply to the same occurrence, offense, wrongful act, accident or loss, the maximum limit of liability or coverage under all such policies and coverage combined shall not exceed the highest applicable limit under any one policy or coverage.

V. The coverage provided by this endorsement shall be excess of, and shall not contribute with, any other valid and collectible insurance policy (other than a policy that is issued specifically as excess of the insurance afforded by this coverage section); regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise. The coverage provided by this **Policy** shall be excess over any other policy under which another insurer has a duty to defend a claim for which this **Policy** may be obligated to pay as a result of loss.

4. As a condition precedent to their rights to coverage under this endorsement for **Identity Theft Expense**, the Insured shall give the **Insurer** written notice of any **Identity Theft** first discovered by the **Insureds** during the **Policy Period**, as soon as practicable, but in no event later than 30 days after the discovery of the **Identity Theft**. Further, the **Insured** shall furnish to the **Insurer** proof of loss, duly sworn to, with full particulars, no later than 90 days after discovery of such **Identity Theft**.

5. The coverage provided by this endorsement for **Identity Theft Expense** does not include any claim adjustment costs incurred by any Insured, including any fees incurred by retaining counsel, a public adjuster or appraiser.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Carolina Casualty Insurance Company

Kidnap Expense Supplemental Coverage

In consideration of the premium paid for this **Policy**, it is amended by the addition of the following:

1. **Kidnap Expense Coverage**

The **Insurer** shall reimburse the **Insured Entity** up to a maximum aggregate limit of \$50,000 per **Policy Period** for **Kidnap Expense** incurred by the **Insured Entity** or any **Insured Person** as a direct result of a **Kidnapping** that occurs during the **Policy Period** and is reported to the **Insurer** pursuant to paragraph 4. below.

No Deductible shall apply to this coverage and any payments made hereunder shall not reduce the Limits of Liability stated in Item 5. of the Declarations.

2. Solely for purpose of the coverage provided by this endorsement for **Kidnap Expense**, section III. Definitions of the Common Policy Terms and Conditions Section of this **Policy** is amended by the addition of the following:

Insured Person means any present or future duly elected or appointed director, trustee or officer of an **Insured Entity**. The term **Insured Person** shall include the parent, child, spouse or **Domestic Partner** of an **Insured Person**.

Kidnap Expense means the reasonable fees and expenses for, or the cost of:

1. an independent negotiator or security consultant retained with prior written approval of the **Insurer**, or
2. interest on any loan taken by the **Named Insured** for property or other consideration surrendered as payment of a **Kidnapping** demand, or
3. travel and accommodations incurred by the **Insured Entity** which become necessary due to the applicable **Kidnapping**, or
4. a reward paid by the **Insured Entity**, which is pre-approved by the **Insurer**, to an informant for information not otherwise available which leads to the arrest and conviction of persons responsible for the applicable **Kidnapping**, or
5. the current salary of an **Insured Person** who is **Kidnapped**, provided, however, that they are held for more than 30 days. Salary shall be paid for a period commencing upon the abduction and ceasing upon the earliest of either the release of the employee or discovery of death of the employee, or 120 days after the **Insurer** receives the last credible evidence that the employee is still alive, or 12 months after the date of **Kidnapping**, or the exhaustion of the Kidnap Expense Coverage limit, whichever comes first.

Kidnapping or **Kidnapped** means the wrongful abduction and holding, under duress or by fraudulent means, of an **Insured Person** by a person or group, whether acting alone or in collusion with others, that includes a demand for payment by an **Insured** in exchange for the release of the **Insured Person**. **Kidnapping** shall not include the wrongful abduction of any **Insured Person** by or at the direction of any present or former family member of any **Insured Person**.

3. Solely for purpose of the coverage provided by this endorsement for **Kidnap Expense**, section V. Limits of Liability and Deductibles of the Common Policy Terms and Conditions Section of this **Policy** is amended by the addition of the following:

- V. If any **Kidnap Expense** is covered under this endorsement and under any other **Coverage Section** or endorsement to this **Policy**, the largest applicable limit shall apply. In no event shall multiple limits apply to coverage which may be duplicated within this **Policy**. Additionally, if this **Policy** and any other policy or coverage issued by the **Insurer** or any affiliate of the **Insurer**, apply to the same occurrence, offense, wrongful act, accident or loss, the maximum limit of liability or coverage under all such policies and coverage combined shall not exceed the highest applicable limit under any one policy or coverage.
- V. The coverage provided by this endorsement shall be excess of, and shall not contribute with, any other valid and collectible insurance policy (other than a policy that is issued specifically as excess of the insurance afforded by this coverage section); regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise. The coverage provided by this **Policy** shall be excess over any other policy under which another insurer has a duty to defend a claim for which this **Policy** may be obligated to pay as a result of loss.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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ATTACHMENT 2

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Carolina Casualty Insurance Company

4. As a condition precedent to their rights to coverage under this endorsement for **Kidnap Expense**, the **Insured** shall give the **Insurer** written notice of any **Kidnapping** which occurs during the **Policy Period**, as soon as practicable, but in no event later than 30 days after the occurrence of the **Kidnapping**. Further, the **Insured** shall furnish to the **Insurer** proof of loss, duly sworn to, with full particulars, no later than 90 days after the occurrence of such **Kidnapping**.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Carolina Casualty Insurance Company

Failed Donation Claim Supplemental Coverage

In consideration of the premium paid for this **Policy**, it is amended by the addition of the following:

1. Failed Donation Claim Coverage

The **Insurer** shall reimburse the **Insured Entity** up to a maximum aggregate limit of \$10,000 per **Policy Period** for all **Failed Donation Claims** received by the **Insured Entity** during the **Policy Period** and reported to the **Insurer** pursuant to item 4. below.

Coverage for any **Failed Donation Claim** shall not apply to any pledge for funds or other measurable tangible property made to the **Insured Entity** dated prior to April 29, 2009.

Coverage for any **Failed Donation Claim** shall not apply if the donor has been in bankruptcy, or has filed for bankruptcy or reorganization prior to the time the applicable pledge was made to the **Insured Entity**.

Coverage for any **Failed Donation Claim** shall not apply if either the natural person donor or any **Insureds** had or should have had any reason to believe the natural donor person would become unemployed or incapacitated subsequent to the donation date.

No Deductible shall apply to this coverage and any payments made hereunder shall not reduce the Limits of Liability stated in Item 5. of the Declarations.

2. Solely for purpose of the coverage provided by this endorsement for any **Failed Donation Claim**, section III. Definitions of the Common Policy Terms and Conditions Section of this **Policy** is amended by the addition of the following:

Failed Donation Claim means a written notice to the **Insured Entity** during the **Policy Period** of:

1. the bankruptcy or reorganization of any donor whereby such bankruptcy or reorganization prevents the donor from honoring a prior written pledge of funds or other measurable tangible property to the **Insured Entity**; or
2. the unemployment or incapacitation of a natural person donor lasting at least 60 days and preventing the donor from honoring a pledge made prior to said unemployment or incapacitation of funds or other measurable tangible property to the **Insured Entity**.

3. Solely for purpose of the coverage provided by this endorsement for any **Failed Donation Claim**, section V. Limits of Liability and Deductibles of the Common Policy Terms and Conditions Section of this **Policy** is amended by the addition of the following:

- V. Any coverage for any **Failed Donation Claim** for non-cash donations shall be based on the fair market value of the non-cash donation on the date the **Failed Donation Claim** is received. Any donation amount which is to be collected by the **Insured Entity** over more than a 12 month period shall be deemed to be a single donation.
- V. If any **Failed Donation Claim** is covered under this endorsement and under any other **Coverage Section** or endorsement to this **Policy**, the largest applicable limit shall apply. In no event shall multiple limits apply to coverage which may be duplicated within this **Policy**. Additionally, if this **Policy** and any other policy or coverage issued by the **Insurer** or any affiliate of the **Insurer**, apply to the same occurrence, offense, wrongful act, accident or loss, the maximum limit of liability or coverage under all such policies and coverage combined shall not exceed the highest applicable limit under any one policy or coverage.
- V. The coverage provided by this endorsement shall be excess of, and shall not contribute with, any other valid and collectible insurance policy (other than a policy that is issued specifically as excess of the insurance afforded by this coverage section); regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise. The coverage provided by this **Policy** shall be excess over any other policy under which another insurer has a duty to defend a claim for which this **Policy** may be obligated to pay as a result of loss.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

Insured Friends of Idaho Public Television, Inc.		Policy Number DCP-898834-P13	
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NOVEMBER 20, 2025

ATTACHMENT 2

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Carolina Casualty Insurance Company

4. As a condition precedent to their rights to coverage under this endorsement for any **Failed Donation Claim**, the **Insured** shall give the **Insurer** written notice of any **Failed Donation Claim** received by the **Insured Entity** during the **Policy Period**, as soon as practicable, but in no event later than 30 days after receipt of the **Failed Donation Claim** by the **Insured**. Further, the **Insured** shall furnish to the **Insurer** proof of loss, duly sworn to, with full particulars, no later than 90 days after the occurrence of such **Failed Donation Claim**.
5. The coverage provided by this endorsement for any **Failed Donation Claim** does not include any claim adjustment costs incurred by any **Insured**, including any fees incurred by retaining counsel, a public adjuster or appraiser.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Carolina Casualty Insurance Company

Modification to
Automatic Extended Reporting Period

In consideration of the premium paid for this **Policy**, section II. B. Automatic Extended Reporting Period sub-paragraph 1 of the Common Policy Terms and Conditions Section this **Policy** is deleted in its entirety and replaced with the following:

- II. B. 1. If the **Named Insured** cancels or if the **Insurer** or the **Named Insured** refuses to renew this **Policy** and the **Named Insured** has not purchased any similar insurance policy(ies) there shall be a 90 day automatic extension of the reporting period of this **Policy** for any **Claim** first made against an **Insured** and reported during such 90 day period after the date upon which the **Policy Period** ends, but only with respect to any **Wrongful Act** fully occurring prior to the end of the **Policy Period** and otherwise covered by this **Policy**. 90 day period shall be referred to as the Automatic Extended Reporting Period. There shall be no additional premium for the Automatic Extended Reporting Period.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Interested Party Exclusion

In consideration of the premium paid for this **Policy**, section IV. Exclusions of the Common Terms of this **Policy** is amended by the addition of the following:

- IV.
- brought or maintained by or on behalf of Idaho Public Television and/or Idaho State Board of Education and/or its subsidiaries and/or its affiliates and/or its directors and/or officers.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

Insured Friends of Idaho Public Television, Inc.		Policy Number DCP-898834-P13	
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Waiver of Deductible if No Liability

In consideration of the premium paid for this **Policy** it is amended as follows:

1. Section III. Definitions of the Common Policy Terms and Conditions Section of this **Policy** is amended by the addition of the following:

No Liability means with respect to a **Claim** made against the **Insured**:

1. a final judgment of no liability obtained prior to trial, in favor of all **Insureds**, with respect to the entire **Claim**, by reason of a motion to dismiss or a motion for summary judgment, after the exhaustion of all appeals, if any, or
2. a final judgment of no liability obtained after trial, in favor of all **Insureds**, with respect to the entire **Claim**, after the exhaustion of appeals, if any.

In no event shall the term **No Liability** apply to a **Claim** made against an **Insured** for which a settlement has occurred.

2. Section V. D. Deductibles of the Common Policy Terms and Conditions Section of this **Policy** is amended by the addition of the following:

V. D. No Deductible shall apply, even as to **Costs of Defense**, to any **Claim** which is in the form of a civil action for monetary relief, in which:

- a. there is a determination of **No Liability**; or
- b. the **Claim** is dismissed or stipulated dismissed without prejudice and without any payment of any consideration by any **Insured**.

If there is a determination of **No Liability** in a **Claim**, the **Insurer** shall reimburse **Costs of Defense** paid by the **Insured** in such **Claim**.

If a **Claim** is dismissed or stipulated dismissed without prejudice and without any payment of any consideration by any **Insured**, the **Insurer** shall reimburse **Costs of Defense** paid by the **Insured** in such **Claim** 90 days after the date of the dismissal or stipulation so long as (i) the **Claim** (or any other **Claim** which together with such **Claim** would be deemed a single **Claim**) is not brought again within such 90 day period and (ii) the **Insured Entity** provides the **Insurer** with a written undertaking in a form satisfactory to the **Insurer** to repay the **Insurer** for such reimbursement in the event the **Claim** (or any other **Claim** which together with such **Claim** would be deemed a single **Claim**) is brought again after such 90 day period and before the expiration of the statute of limitations for such **Claim**.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Carolina Casualty Insurance Company

Costs of Defense Sub-Limit for
Wage and Hour Wrongful Acts

In consideration of the premium paid for this **Policy**:

1. Section I. Insuring Agreement of the Employment Practices Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:

I. Costs of Defense for Wage and Hour Claims

This **Policy** shall pay on behalf of the **Insureds** the **Costs of Defense** up to the maximum sub-limit of liability of \$100,000 arising from any **Wage and Hour Claim** first made against the **Insureds** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. of the Common Policy Terms and Conditions Section of this **Policy**, for any actual or alleged **Wage and Hour Wrongful Act** committed subsequent to the **Prior Acts Date**.

Such sub-limit shall be part of, and not in addition to, the Limit of Liability applicable to the Employment Practices Liability Coverage Section stated in Item 5. of the Declarations.

With respect to a **Wage and Hour Claim**, the **Insurer** shall not be liable for any **Loss** other than **Costs of Defense**.

2. Solely with respect to the coverage provided by this endorsement for **Costs of Defense** for **Wage and Hour Claims**, the defined terms **Claim**, **Employee**, **Loss** and **Wrongful Act** of section III. Definitions of the Employment Practices Liability Insurance Coverage Section of this **Policy** are deleted in their entirety and replaced with the following:

Claim means a **Wage and Hour Claim**.

Employee means an individual whose labor or service is engaged by and directed by an **Insured Entity**, including any full-time, part-time, leased, seasonal or temporary individual. **Employee** shall not include equity partners or shareholders, owners, Limited Liability Company members, volunteers, interns or independent contractors.

Loss means **Costs of Defense**.

Wrongful Act means **Wage and Hour Wrongful Act**.

3. Solely with respect to the coverage provided by this endorsement **Costs of Defense** for **Wage and Hour Claims**, the section III. Definitions of the Employment Practices Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:

Wage and Hour Claim means:

1. a written demand for monetary or non-monetary relief which is brought and maintained by an **Employee** against an **Insured**, arising from a **Wage and Hour Wrongful Act**; or
2. an administrative or regulatory investigation or proceeding commenced by or before a federal, state, local or foreign agency which is brought and maintained by an **Employee** against an **Insured**, arising from a **Wage and Hour Wrongful Act**;

provided, however, the term **Wage and Hour Claim** shall not include any grievance or arbitration based upon, arising out of, directly or indirectly resulting from, or in consequence of, or in any way involving a collective bargaining agreement.

Wage and Hour Wrongful Act means any actual or alleged violation by the **Insured** of any federal, state, local or foreign wage and hour laws whether statutory or common law, including without limitation, the Fair Labor Standards Act, arising from an actual employment relationship with an **Employee**.

4. Solely for the purpose of the coverage provided by this endorsement for **Costs of Defense** for **Wage and Hour Claims**,

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Carolina Casualty Insurance Company

section IV. Exclusions F. of the Employment Practices Liability Insurance Coverage Section of this **Policy** is deleted in its entirety and replaced with the following:

IV. F. based upon, arising out of, directly or indirectly resulting from, or in consequence of, or in any way involving any actual or alleged violations of any federal, state, local or foreign wage and hour laws whether statutory or common law, including without limitation, the Fair Labor Standards Act, including any amendments thereto; provided, however, this exclusion shall not apply to any **Claim** for any amounts owed under the Equal Pay Act of 1963, or any similar provisions of any federal, state, local or foreign law prohibiting pay discrimination.

5. Solely with respect to coverage provided by this endorsement for **Costs of Defense** for **Wage and Hour Claims**, section V. Limits of Liability and Deductibles D. of the Common Policy Terms and Conditions Section of this **Policy** is replaced with the following:

V. D. The **Insurer** shall only be liable for the amount of **Loss** arising from a **Wage and Hour Claim** which is in excess of the Deductible amount of \$1,000. Such Deductible amount shall be borne by the **Named Insured** with regard to all **Loss** arising thereunder. One Deductible will apply to all **Wage and Hour Claims** arising from the same **Wrongful Acts** or **Related Wrongful Acts**.

6. Solely for the purpose of coverage provided by this endorsement for **Costs of Defense** for **Wage and Hour Claims**, section V. Other Insurance of the Employment Practices Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:

V. a **Wage and Hour Claim** shall be excess of, and shall not contribute with, any other valid and collectible insurance policy (other than a policy that is issued specifically as excess of the insurance afforded by this coverage section); regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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IDAHO
IMPORTANT POLICYHOLDER NOTICE

If you have been unable to contact or obtain satisfaction from your agent or the Insurer, you may contact the Idaho Department of Insurance to obtain information or make a complaint at:

Idaho Department of Insurance Consumer Affairs
700 W State Street, 3rd Floor
PO BOX 83720
Boise ID 83720-003
1-800-721-3272 or 208-334-4250
www.DOI.Idaho.gov

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Carolina Casualty Insurance Company

Excess Benefit Penalty Coverage

In consideration of the premium paid for this **Policy**, the defined term **Damages** in section III. Definitions of the Directors, Officers and Organization Liability Insurance Coverage Section of this **Policy** is deleted in its entirety and replaced with the following:

Damages means:

1. a monetary judgment, award or settlement; or
2. pre-judgment interest and post-judgment interest;

provided, however, **Damages** shall not include:

- a. taxes, civil or criminal fines, sanctions or penalties imposed by law; provided, however, that the **Insurer** will reimburse an **Insured Entity**:
 - i. for any employer share of payroll taxes on any portion of damages or settlements which constitute backpay otherwise considered **Damages**, or
 - ii. for any 10 percent (10%) excess benefit tax penalty assessed by the Internal Revenue Service on any organization manager who participates in an excess benefit transaction, as defined by the Taxpayer Bill of Rights 2, H.R. 2337, up to a maximum limit of \$25,000 per **Policy Period** for all **Insureds**, which amount shall be part of and not in addition to the Limits of Liability set forth in Item 4. of the Declarations;
- b. costs incurred by any **Insured** to make any building or property more accessible or accommodating to any disabled person; or
- c. commissions, bonuses, deferred compensation, profit sharing or severance payments; or
- d. disgorgement or restitution payment by or on behalf of any **Insured**, including disgorgement or restitution of amounts retained, obtained, or acquired by an **Insured** and any settlement payment arising from any actual or alleged amount that an **Insured** improperly retained, obtained, or acquired; or
- e. any matter deemed uninsurable under the law pursuant to which this **Policy** shall be construed.

It is further understood and agreed that the **Insurer** shall not be liable for any **Loss** attributable to, or a part of, the 200 percent (200%) tax penalty assessed by the Internal Revenue Service for failure to correct the award of an excess benefit tax penalty, and the assessment of a 200 percent (200%) tax penalty shall void any coverage extended by this endorsement.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Professional Services Exclusion

In consideration of the premium paid for this **Policy**, section IV. Exclusions of the Directors, Officers and Organization Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:

IV. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving the performance of any professional services for others, and caused by any act, error or omission.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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In consideration of the premium paid for this **Policy** it is amended as follows:

1. Section IV. Exclusions of the Directors, Officers and Organization Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:
 - IV. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged:
 1. plagiarism or piracy;
 2. infringement of copyright, patent, title or slogan;
 3. idea misappropriation; and/or
 4. intellectual property rights.
2. The defined term **Personal Injury** in Section III. Definitions of the Directors, Officers and Organization Liability Insurance Coverage Section of this **Policy** is deleted in its entirety and replaced with the following:

Personal Injury means any actual or alleged defamation, invasion of privacy, wrongful entry, eviction, false arrest, false imprisonment, or malicious prosecution.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Idaho Amendatory Endorsement

In consideration of the premium paid for this **Policy**, this **Policy** is amended to the extent necessary and supersedes anything to the contrary.

1. Section VIII. B. Application is amended by the addition of the following:

VIII. B. Provided, however, any misrepresentations, omissions, concealment of facts, and incorrect statements shall not prevent recovery under the Policy unless they are:
 1. fraudulent;
 2. material either to the acceptance of the risk, or to the hazard assumed by the **Insurer**; or
 3. the **Insurer** in good faith would either not have issued the Policy, or would not have issued it at the same premium rate or would not have issued the Policy in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss, if the true facts had been made known to the **Insurer** as required by the Application for the Policy or otherwise.

2. Section III. Definitions **Insured Person** paragraph 2. is amended by deleting the following sentence:

"As used herein, spouse shall include a person that is party to a civil union with the **Insured Person** if they establish such civil union under the licensing process established by the applicable jurisdiction."

IMPORTANT NOTICE TO IDAHO POLICYHOLDERS

If you have been unable to contact or obtain satisfaction from your agent or the **Insurer**, you may contact the Idaho Department of Insurance to obtain information or make a complaint at:

Idaho Department of Insurance
Consumer Affairs
700 W State Street, 3rd Floor
PO BOX 83720
Boise ID 83720-003
1-800-721-3272 or 208-334-4250 or www.DOI.Idaho.gov

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

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Common Policy Terms and Conditions Section

CLAIMS MADE NOTICE FOR POLICY

NOTICE: THIS POLICY PROVIDES COVERAGE ON A CLAIMS MADE AND REPORTED BASIS. SUBJECT TO ITS TERMS, THIS POLICY APPLIES ONLY TO ANY CLAIM FIRST MADE AGAINST THE INSURED AND REPORTED TO THE INSURER DURING THE POLICY PERIOD OR ANY EXTENDED REPORTING PERIOD THAT MAY APPLY.

PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.

In consideration of the payment of the premium, in reliance on all statements in the **Application** and all other information provided to the **Insurer**, and subject to all provisions of this **Policy**, the **Insurer** and **Insureds** agree as follows:

I. Common Policy Terms and Conditions Section

The Common Policy Terms and Conditions Section of this **Policy** shall apply to all **Coverage Sections** and endorsements. Unless stated to the contrary in any **Coverage Section** or endorsement, the terms and conditions of each **Coverage Section** of this **Policy** shall apply only to that **Coverage Section** and shall not apply to any other **Coverage Section** of this **Policy**. If any provision in the Common Policy Terms and Conditions Section is inconsistent or in conflict with the terms and conditions of any **Coverage Section** or endorsement, the terms and conditions of such **Coverage Section** or endorsement shall control for the purposes of that **Coverage Section** or endorsement. Any defined term referenced in this Common Policy Terms and Conditions Section and also defined in a **Coverage Section** or endorsement shall, for the purposes of coverage under that **Coverage Section** or endorsement, have the meaning set forth in that **Coverage Section** or endorsement.

II. Extended Reporting Periods

A. Optional Extended Reporting Period

1. If this **Policy** is cancelled or non-renewed by the **Insurer** for reason other than non-payment of premium, or if the **Named Insured** elects to cancel or non-renew this **Policy**, then the **Named Insured** shall have the right, upon payment of the additional premium described in sub-paragraph 5. below, to purchase an extension of the reporting period of this **Policy** for any **Claim** that is first made against the **Insured** during such period but only with respect to any **Wrongful Act** fully occurring prior to the end of the **Policy Period** and which is otherwise covered by this **Policy**. Such period of time shall be referred to as the Optional Extended Reporting Period.
2. The right to purchase the Optional Extended Reporting Period must be exercised by the **Named Insured** within thirty (30) days of the end of the **Policy Period** by providing written notice to the **Insurer** along with the additional premium.
3. If purchased, the Optional Extended Reporting Period shall begin on the date the **Policy Period** ends.
4. As a condition precedent to the right to purchase the Optional Extended Reporting Period, the total premium for the **Policy** must have been paid and any deductible obligations met by the **Insureds**.
5. The additional premium for the Optional Extended Reporting Period shall be based upon the annual premium for the **Policy** in effect on the date this **Policy** was issued or last renewed and shall be: fifty percent (50%) of such annual premium for one (1) year; seventy five percent (75%) of such annual premium for two (2) years; or one hundred percent (100%) of such annual premium for three (3) years.
6. In the event of a Transaction described in Section VIII. D. of the Common Policy Terms and Conditions Section, the **Named Insured** has the right to purchase a Run-off Period pursuant to the terms of Section II. C. below.
7. The entire premium for the Optional Extended Reporting Period shall be deemed fully earned at its commencement.
8. The Limit of Liability for the Optional Extended Reporting Period shall be part of, and not in addition to, the Limits of Liability stated in Item 5. of the Declarations for this **Policy**.

B. Automatic Extended Reporting Period

1. If the **Named Insured** cancels or if the **Insurer** or the **Named Insured** refuses to renew this **Policy** and the **Named Insured** has not purchased any similar insurance policy(ies) there shall be a sixty (60) day automatic extension of the reporting period of this **Policy** for any **Claim** first made against an **Insured** and reported during such sixty (60) day period after the date upon which the **Policy Period** ends, but only with respect to any **Wrongful Act** fully occurring prior to the end of the **Policy Period** and otherwise covered by this **Policy**. This sixty (60) day period shall be referred to as the Automatic Extended Reporting Period. There shall be no additional premium for the Automatic Extended Reporting Period.
2. The Limit of Liability for the Automatic Extended Reporting Period shall be part of, and not in addition to, the Limits of Liability stated in Item 5. of the Declarations for this **Policy**.

C. Run-Off Period in the Event of a Transaction

1. In the event of a Transaction described in section VIII. D. of the Common Policy Terms and Conditions Section, the **Named Insured** shall have the right, upon payment of the additional premium described in sub-paragraph 5. below, to purchase an extension of the reporting period of this **Policy** for any **Claim** that is first made against the **Insured** during such period but only with respect to any **Wrongful Act** fully occurring prior to the end of the **Policy Period** and which is otherwise covered by this **Policy**. Such period of time shall be referred to as the Run-off Period.
2. The right to purchase the Run-Off Period must be exercised by the **Named Insured** within sixty (60) days of the end of the **Policy Period** by providing written notice to the **Insurer** along with the additional premium.
3. If purchased, the Run-Off Period shall begin on the date the **Policy Period** ends.
4. As a condition precedent to the right to purchase the Run-Off Period, the total premium for the **Policy** must have been paid and any deductible obligations met by the **Insureds**.
5. The additional premium for the Run-Off Period shall be based upon the annual rates for the **Policy** in effect on the date this **Policy** was issued or last renewed and shall be: seventy five percent (75%) of such annual premium for one (1) year; one hundred percent (100%) of such annual premium for two (2) years; one hundred twenty five percent (125%) of such annual premium for three (3) years; or two hundred twenty five percent (225%) of such annual premium for six (6) years.
6. The entire premium for the Run-Off Period shall be deemed fully earned at its commencement.
7. The Limit of Liability for the Run-off Period shall be part of, and not in addition to, the Limits of Liability stated in Item 5. of the Declarations for this **Policy**.

III. Definitions

Whenever printed in boldface type and whether in the singular or plural form in this **Policy**, the following terms shall have the meanings indicated below.

Application means the Application Form(s) and any material submitted therewith.

Claim shall have the meaning set forth in each applicable **Coverage Section** or any applicable endorsement attached to this **Policy**.

Costs of Defense shall have the meaning set forth in each applicable **Coverage Section** or any applicable endorsement attached to this **Policy**.

Coverage Section means, individually or collectively, the purchased **Coverage Sections** listed in Item 3. of the Declarations and attached to this **Policy**.

Damages shall have the meaning set forth in each applicable **Coverage Section** or any applicable endorsement attached to this **Policy**.

Where insurable, **Damages** also means: liquidated, punitive, or exemplary damages, or any multiplied damages award in excess of the amount so multiplied. Such coverage for liquidated, punitive, exemplary or multiplied damages is part of and not in addition to the Limit of Liability, and any payment of such **Damages** shall serve to reduce the Limit of Liability. Only for the purpose of resolving any dispute between the **Insurer** and the **Insured** regarding whether such liquidated, punitive, exemplary or multiplied damages are insurable under this **Policy**, the law of the jurisdiction most favorable to the insurability of those damages shall control, provided that such jurisdiction is where:

1. those damages were awarded or imposed; or
2. any **Wrongful Act** occurred for which such damages were awarded or imposed; or
3. the **Insured** resides, is incorporated or has its principal place of business; or
4. the **Insurer** is incorporated or has its principal place of business.

Domestic Partner means any person who qualifies as a **Domestic Partner** under the provisions of any federal, state or local statute or regulation (whether such status is derived by reason of statutory law, common law or otherwise, of any applicable jurisdiction in the world), or under the terms and provisions of any employee benefit or other program established by the **Named Insured**.

Insured means:

1. any duly elected or appointed director, trustee or officer of an **Insured Entity**, or
 2. any **Insured Entity**;
- unless modified by an applicable **Coverage Section** or any applicable endorsement attached to this **Policy**.

Insured Entity means the **Named Insured** and any **Subsidiary**.

Insured Person shall have the meaning set forth in each applicable **Coverage Section** or any applicable endorsement attached to this **Policy**.

This **Policy** shall cover **Costs of Defense** and **Damages** arising from a **Claim** made against:

1. the heirs, executors, administrators, and legal representatives of an **Insured Person** in the event of death, incapacity or bankruptcy, but solely with respect to the liability of an **Insured Person** as otherwise covered by this **Policy**; or
2. the lawful spouse or **Domestic Partner** of an **Insured Person** for a **Claim** arising solely out of his or her status as the spouse or **Domestic Partner** of an **Insured Person**, including a **Claim** that seeks damages recoverable from marital community property, property jointly held by the **Insured Person** and the spouse or **Domestic Partner**, or property transferred from the **Insured Person** to the spouse or **Domestic Partner**. As used herein, spouse shall include a person that is party to a civil union with the **Insured Person** if they establish such civil union under the licensing process established by the applicable jurisdiction. However, this extension shall not afford coverage for any **Claim** for any **Wrongful Act** of the spouse or **Domestic Partner**, but shall apply only to **Claims** arising out of any **Wrongful Act** of an **Insured Person**.

Insurer means the entity issuing this **Policy** as listed on the Declarations Page.

Loss means **Damages** and **Costs of Defense**.

Named Insured means the entity designated in Item 1. of the Declarations.

Policy means, collectively, the Declarations, the Common Policy Terms and Conditions Section, the **Coverage Sections**, and the **Application**.

Policy Period means the period of time from the inception date shown in Item 2. of the Declarations to the earlier of the expiration date shown in Item 2. of the Declarations or the effective date of cancellation of this **Policy**.

Related Wrongful Acts means **Wrongful Acts** which are the same as, related or continuous or that are logically or causally connected by reason of any common fact, circumstance, situation, transaction, casualty, event or decision.

Subsidiary means an entity which qualifies as a nonprofit organization under Section 501(c)(3), (c)(4), (c)(6), (c)(7), (c)(8), (c)(10), or (c)(13) of the Internal Revenue Code of 1986, including amendments thereto and which the **Named Insured** has or controls the right to elect or appoint more than 50 percent of the Board of Directors (or other governing body) on or before the inception of the **Policy Period**.

The term **Subsidiary** shall not mean any political committee organized pursuant to Section 432 of the Federal Election Campaign Act of 1971, including amendments thereto.

In all events, coverage as is afforded with respect to a **Claim** made against a **Subsidiary** shall only apply for **Wrongful Acts** committed or allegedly committed after the effective time that such **Subsidiary** became a **Subsidiary** and prior to the time that such **Subsidiary** ceased to be a **Subsidiary**.

An entity ceases to be a **Subsidiary** when the **Named Insured** ceases to control the right to elect or appoint more than 50 percent of the Board of Directors (or other governing body), or ceases to continue as an ongoing entity.

If during the **Policy Period** the **Insured Entity** forms or acquires a **Subsidiary**, this **Policy** shall apply:

1. Automatically for a **Subsidiary**, whose assets are less than thirty five percent (35%) of the total consolidated assets of the **Insured Entity** as of the **Policy** inception date; or
2. If the assets of such **Subsidiary** are equal to or greater than thirty five percent (35%) of the total consolidated assets of the **Insured Entity** as of the **Policy** inception date, then only upon the condition that within ninety (90) days of it becoming a **Subsidiary**, the **Named Insured** provides the **Insurer** in writing with full particulars of the new **Subsidiary** and agrees to any additional premium and/or amendment of the provisions of this **Policy** required by the **Insurer** related to such new **Subsidiary**. Further, coverage as shall be afforded to the new **Subsidiary** is conditioned upon the **Named Insured** paying when due any additional premium required by the **Insurer** relating to such new **Subsidiary**.

Wrongful Act shall have the meaning set forth in each applicable **Coverage Section** or any applicable endorsement attached to this **Policy**.

IV. Exclusions

The **Insurer** shall not be liable to make any payment for **Loss** in connection with a **Claim** made against any **Insured**:

- A. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged nuclear reaction, radiation or contamination, regardless of cause;
- B. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged seepage, pollution or contamination of any kind;
- C. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving:
 1. any **Wrongful Act** alleged in any claim which has been reported, or in any circumstance of which notice has been given, prior to the **Policy Period** under any other policy; or
 2. any other **Wrongful Act** whenever occurring, which together with a **Wrongful Act** which has been the subject of such claim or notice, would constitute **Related Wrongful Acts**.

V. Limits of Liability and Deductibles

A. Limits of Liability

1. Costs of Defense Reduce the Limit of Liability

If **Costs of Defense** Reduce the Limit of Liability is purchased, as stated in Item 4. A. of the Declarations, then **Costs of Defense** are part of **Loss** and payment thereof will reduce the Limit of Liability available to pay **Damages**. **Costs of Defense** are not payable by the **Insurer** in addition to any applicable Limit of Liability stated in Item 5. of the Declarations. The **Insurer's** liability for all **Loss** arising out of all **Claims** first made against the **Insureds** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. Notice of Claims of this **Policy** shall not exceed the amount(s) stated in Item 5. of the Declarations for the purchased **Coverage Section(s)**.

2. Costs of Defense in Addition to the Limit of Liability

If **Costs of Defense** in Addition to the Limit of Liability is purchased, as stated in Item 4. B. of the Declarations, **Costs of Defense** shall be separate and in addition to the applicable Limits of Liability stated in Item 5. of the Declarations. Payment of **Costs of Defense** shall not reduce the applicable Limits of Liability stated in Item 5. of the Declarations.

The **Insurer's** liability for all **Damages** arising out of all **Claims** first made against the **Insureds** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. Notice of Claims of this **Policy** shall not exceed the amount(s) stated in Item 5. of the Declarations for the purchased **Coverage Section(s)**.

In the event the applicable Limit(s) of Liability stated in Item 5. of the Declarations is exhausted by payment of **Damages**, or has been tendered to or on behalf of the **Insured**, then any and all obligations of the **Insurer** hereunder shall be deemed to be completely fulfilled and extinguished.

3. Shared Policy Limit of Liability

If Shared Policy Limit of Liability for all **Coverage Sections** is purchased, as stated in Item 5. A. of the Declarations, then the **Insurer's** liability for all **Claims** covered by the **Coverage Sections** purchased shall not exceed the Aggregate Limit of Liability stated in Item 5. A. of the Declarations.

4. Separate Limit of Liability

If Separate Limit of Liability for each **Coverage Section** is purchased, as stated in Item 5. B. of the Declarations, then the **Insurer's** liability for all **Claims** covered by each **Coverage Section** purchased shall not exceed the Separate Aggregate Limit of Liability stated in Item 5. B. of the Declarations.

B. Exhaustion of Limit of Liability

1. In the event the applicable Limit of Liability stated in Item 5. of the Declarations, or any applicable sub-limit stated in this **Policy**, is exhausted by payment of **Costs of Defense** and/or **Damages**, or has been offered or tendered to, or on behalf of, the **Insured**, or to a court of competent jurisdiction, then any and all obligations of the **Insurer** hereunder shall be deemed to be completely fulfilled and extinguished.
2. Unless otherwise stated, all Limits of Liability for this **Policy**, including any sub-limit(s), will apply in the aggregate to all covered **Claims**. In no event shall the **Insurer** be liable to make any payment for **Costs of Defense** and/or **Damages** in excess of the Limit(s) of Liability stated in Item 5. of the Declarations or any applicable sub-limit stated in this **Policy**.
3. The **Insurer** is not obligated to investigate, defend, pay or settle, or continue to investigate, defend, pay or settle a **Claim** after the applicable limit of the **Insurer's** liability has been exhausted by payment of **Damages** or **Costs of Defense** or by any combination thereof or after the **Insurer** has deposited the remaining available Limit of Liability into a court of competent jurisdiction. In such case, the **Insurer** shall have the right to withdraw from the further investigation, defense, payment or settlement of such **Claim** by tendering control of said investigation, defense or settlement of the **Claim** to the **Insured**.

C. Multiple Coverage Sections or Endorsements

In the event a **Claim** is covered under more than one **Coverage Section** or endorsement and such **Coverage Sections** or endorsements are not subject to a Shared Policy Limit of Liability, the **Insurer** shall pay covered **Damages** based on the terms of each applicable **Coverage Section** or endorsement and allocated to each applicable **Coverage Section** or endorsement on the basis of the relative legal and financial exposures of the parties pursuant to the applicable **Coverage Sections** or endorsements, as determined by the **Insurer**. The **Insurer** shall pay covered **Costs of Defense** based on the terms of each applicable **Coverage Section** or endorsement, to be distributed equally against all applicable **Coverage Sections** or endorsements. Any **Costs of Defense** and/or **Damages** paid shall reduce the applicable sub-limit or Limit of Liability of such **Coverage Sections** or endorsements. In no event shall the **Insurer** be liable to pay **Costs of Defense** and/or **Damages** for such **Claim** in excess of the largest Limit of Liability available under the **Coverage Sections** or endorsements applicable to such **Claim**.

D. Deductibles

1. The **Insurer** shall only be liable for the amount of **Loss** arising from a **Claim** which is in excess of the applicable Deductible amount stated in Item 6. of the Declarations. Such Deductible amount shall be borne by the **Named Insured** and shall apply to each and every **Claim**. In the event a **Claim** is covered under more than one **Coverage Section** or endorsement, the largest applicable Deductible shall apply. If the **Named Insured** fails to pay the Deductible, then all **Insureds** shall be jointly and severally obligated to pay the Deductible.
2. If the **Insurer** advances any **Loss** within the applicable Deductible, the **Named Insured** shall, upon written demand, reimburse the **Insurer** for such amounts within thirty (30) days. Any funds so advanced by the **Insurer** at its option, shall serve to reduce the Limit of Liability to the extent that they are not repaid to the **Insurer**. If the **Insurer** brings suit to collect the Deductible, then the **Insured** responsible to pay the applicable Deductible also shall pay the legal fees, costs and expenses incurred by the **Insurer** to collect the Deductible.

VI. Defense, Cooperation and Settlements**A. Consent**

No **Insured** shall admit or assume liability, enter into any settlement agreement, make any offer of settlement or compromise, stipulate to any judgment, agree to arbitration, or incur **Costs of Defense** without the **Insurer's** prior written consent. The **Insurer's** consent shall not be unreasonably withheld, provided that the **Insurer** shall be entitled to full information and all particulars it may request in order to reach a decision regarding such consent. Any **Costs of Defense** and/or **Damages** incurred and settlements agreed to prior to the **Insurer** giving its consent shall not be covered hereunder.

B. Defense of Claims

1. The **Insurer** shall have the right and the duty to defend any **Claims** which are covered by this **Policy**. The **Insurer** shall have the right to select defense counsel. The **Insurer** has no obligation to provide **Costs of Defense** for any **Claim** not covered by this **Policy**.
2. The **Insurer** has no obligation to pay any amounts incurred by any **Insured** in any way involving the interpretation or applicability of the terms and conditions of this **Policy**.

C. Cooperation

Each **Insured** shall cooperate with the **Insurer** in the defense and settlement of any **Claim**, and in enforcing any right of contribution or indemnity against any person or organization that may be liable to the **Insured**, at no cost to the **Insurer**. Upon the request of the **Insurer**, the **Insured** shall submit to examination and interrogation, under oath if required by a representative of the **Insurer**, and shall attend hearings, depositions and trials, assist in effecting settlement, securing and giving evidence, obtaining the attendance of witnesses, as well as giving written statements to the **Insurer's** representatives, and meeting with such representatives for purposes of investigation or defense, all without charge to the **Insurer**.

D. Settlements

The **Insurer** shall not settle any **Claim** without the **Named Insured's** consent. If, however, the **Named Insured** shall refuse to consent to any settlement recommended by the **Insurer**, which is acceptable to the claimant, and shall elect to contest the **Claim**, or continue any civil, criminal, administrative, or arbitration proceedings in connection with such **Claim**, then the **Insurer's** liability for the **Claim** shall be the amount for which the **Claim** could have been settled, including **Costs of Defense** incurred up to the date of such refusal, and eighty percent (80%) of such **Loss** excess of the amount for which the **Claim** could have been settled. It is a condition of this insurance that the remaining twenty percent (20%) of such **Loss** shall be borne by the **Insureds** at their own risk. Such amounts are subject to the provisions of section V. of the Common Policy Terms and Conditions Section of this **Policy**.

E. Allocation

If a **Claim** made against an **Insured** pursuant to any **Coverage Sections** contains both covered and uncovered matters, then the **Named Insured** and the **Insurer** will allocate any amount incurred with respect to such **Claim** as follows:

1. one hundred percent (100%) of **Costs of Defense** incurred will constitute covered **Loss**; and
2. **Damages** will be allocated on the basis of the relative legal and financial exposures of the parties as to covered and uncovered matters pursuant to the applicable **Coverage Sections**.

If a **Claim** made against an **Insured** pursuant to any **Coverage Sections** contains both covered and uncovered parties, then the **Named Insured** and the **Insurer** will allocate any amounts incurred on behalf of any uncovered parties with respect to such **Claim** on the basis of the relative legal and financial exposures of the parties of such covered and uncovered parties pursuant to the applicable **Coverage Sections**.

The **Insurer** shall not be liable under this **Policy** for the portion of such amount allocated to non-covered **Loss**. In the event that the parties cannot reach a mutually agreeable allocation, the **Insurer** will determine the appropriate allocation at its discretion.

VII. Notice of Claims

A. Notice of Claim

As a condition precedent to their rights under this **Policy**, an **Insured** shall give the **Insurer** written notice of any **Claim** first made against the **Insureds** during the **Policy Period**, as soon as practicable, but in no event later than sixty (60) days after such **Claim** is first made.

B. Notice of Circumstance

If during the **Policy Period** or any Extended Reporting Period or Run-off Period that may apply, the **Insureds** become aware of any fact, circumstance or situation which may reasonably be expected to give rise to a **Claim** being made against any **Insured** and the **Insured** gives written notice to the **Insurer**, as soon as practicable (but prior to the expiration of or cancellation of the **Policy**), of:

1. the specific fact, circumstance or situation, with full details as to dates, persons, and entities involved; and
2. the injury or damages which may result therefrom; and
3. the circumstances by which the **Insured** first became aware thereof;

then any **Claim** subsequently made arising out of such fact, circumstance or situation shall be deemed to have been made when notice was first given to the **Insurer**.

C. Related Wrongful Acts

All **Claims** based upon or arising out of the same **Wrongful Act** or any **Related Wrongful Acts**, or one or more in a series of any similar, repeated or continuous **Wrongful Acts** or **Related Wrongful Acts**, shall be considered a single **Claim**. Each **Claim** shall be deemed to be first made at the earliest of the following times:

1. when the earliest **Claim** arising out of such **Wrongful Act** or **Related Wrongful Acts** is first made, or
2. when notice pursuant to section VII. B. above of a fact, circumstance or situation giving rise to such **Claim** is given.

D. Information and Cooperation

In addition to furnishing the notice as provided in sections VII. A. and VII. B. above, the **Insureds** shall give the **Insurer** such information and cooperation as it may reasonably require and shall, as soon as practicable, furnish the **Insurer** with copies of reports, investigations, pleadings and other papers in connection therewith.

VIII. General Conditions

A. Cancellation or Non-Renewal of Policy

1. Cancellation

- a. The **Named Insured** may cancel this **Policy** at any time by sending written notice to the **Insurer**.
- b. The **Insurer** may not cancel this **Policy** except for non-payment of any premium when due.
- c. The **Insurer** shall provide at least twenty (20) days written notice to the **Named Insured** prior to any cancellation for non-payment of any premium and such cancellation shall not be effective less than twenty (20) days after such notice is mailed.
- d. If this **Policy** is cancelled by the **Named Insured**, the **Insurer** shall retain the customary short rate proportion of the premium herein. Payment or tender of any unearned premium by the **Insurer** shall not be a condition precedent to the effectiveness of cancellation, but such payment shall be made as soon as practicable.

2. Nonrenewal

If the **Insurer** decides not to renew this **Policy**, the **Insurer** shall provide written notice to the **Named Insured** at least sixty (60) days prior to the end of the **Policy Period**. The notice shall include the reason for such non-renewal.

3. Notice

The **Insurer** shall send all notices required under this Section VIII.A. by first-class mail to the **Named Insured** at the address last known to the **Insurer**. Proof of mailing of such notice by the United States Postal Service certificate of mailing shall be sufficient proof of notice.

B. Application

The **Application** is the basis of this **Policy** and is incorporated in and constitutes a part of this **Policy**. Any material submitted with the **Application(s)** shall be maintained on file with the **Insurer** and shall be deemed to be attached hereto as if physically attached. It is agreed by the **Insureds** that the statements in the **Application** are their representations, that they are material and that this **Policy** is issued in reliance upon the truth of such representations. With respect to such statements and representations, no knowledge or information possessed by any **Insureds** shall be imputed to any other **Insureds**.

If any person or persons knew as of the **Policy** inception date that such declarations and statements contained in the **Application(s)** were untrue, inaccurate or incomplete, then this **Policy** shall not apply to that person or persons.

However, if the signer of the **Application** knew as of the **Policy** inception date that such representations and statements contained in the **Application(s)** were untrue, inaccurate or incomplete, then this **Policy** shall not apply to that person or persons and the **Insured Entity**.

C. Action Against the Insurer

No action shall lie against the **Insurer** unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this **Policy**, and the amount of the **Insureds'** obligation to pay shall have been finally determined either by judgment against the **Insureds** after actual trial or by written agreement of the **Insureds**, the claimant and the **Insurer**.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this **Policy** to the extent of the insurance afforded by this **Policy**. No person or organization shall have any right under this **Policy** to join the **Insurer** as party to any action against the **Insureds** to determine the **Insureds'** liability, nor shall the **Insurer** be impleaded by the **Insureds** or their legal representatives.

D. Change in Control of the Named Insured

1. If during this **Policy Period** the **Named Insured**:
 - a. ceases to continue as an ongoing entity; or
 - b. sells all or substantially all of its assets, or consolidates, or merges with or into any other person, group, entity or organization; who then controls the right to elect or appoint more than 50 percent of the Board of Directors or other governing body of the **Named Insured**;

(either of the above events herein referred to as "Transaction")

then, this **Policy** shall continue in full force and effect as to any **Wrongful Acts** fully occurring prior to the Transaction, but there shall be no coverage afforded by any provision of this **Policy** for any actual or alleged **Wrongful Acts** occurring after the Transaction.
2. This **Policy** may not be cancelled following a Transaction and the entire premium for this **Policy** shall be deemed fully earned as of the effective date of the Transaction.
3. The **Named Insured** shall give the **Insurer** written notice of the Transaction as soon as practicable but not later than sixty (60) days after the Transaction and prior to the expiration of the **Policy Period**. In the event of a Transaction, the **Named Insured** shall have the right to purchase the Run-Off Period described in section II. C. of this Common Policy Terms and Conditions Section.

E. Subrogation

In the event of any payment under this **Policy**, the **Insurer** shall be subrogated to the extent of such payment to all the **Insureds'** rights of recovery thereof, and the **Insureds** shall execute all papers required and shall do everything that may be necessary to secure such rights including the execution of such documents necessary to enable the **Insurer** to effectively bring suit in the name of the **Insureds**. In no event, however, shall the **Insurer** exercise its rights of subrogation against an **Insured** under this **Policy** unless such **Insured** has been convicted of a criminal act, or been judicially determined to have committed a deliberate fraudulent act, or obtained any profit or advantage to which such **Insured** was not legally entitled.

F. Assignment

This **Policy** and any and all rights hereunder are not assignable without the written consent of the **Insurer**.

G. Entire Agreement

By acceptance of this **Policy**, the **Insureds** and the **Insurer** agree that this **Policy** and any written endorsements attached hereto constitute the entire agreement between the parties.

H. Representation by Named Insured

It is agreed that the **Named Insured** shall act on behalf of its **Subsidiaries** and all **Insureds** with respect to the giving and receiving of notices, the payment of premiums and the receiving of any return premiums that may become due under this **Policy**, the receipt and acceptance of any endorsements issued to form a part of this **Policy** and the exercising or declining to exercise any right to an Extended Reporting Period or Run-off Period.

I. Coverage Territory

This **Policy** applies to any **Wrongful Act** taking place anywhere in the world. In the event that the **Insured Entity** operates outside the United States, then the term **Insured Person** also means those titles, positions or capacities in such foreign **Insured Entity** which is equivalent to the position of **Insured Person** in an entity incorporated and/or formed within the United States.

J. Bankruptcy

Bankruptcy or insolvency of the **Insureds** or of their estates shall not relieve the **Insurer** of any of its obligations hereunder. In the event a liquidation or reorganization proceeding is commenced by or against the **Insured Entity** pursuant to the United States Bankruptcy Code, including amendments thereto, or any similar state or local law. The **Insured Entity** and the **Insured Persons** hereby: (1) agree to waive and release any automatic stay or injunction which may apply in such proceeding to this **Policy** or its proceeds under such Bankruptcy Code or law; and (2) agree not to oppose or object to any efforts by the **Insurer**, the **Insured Entity** or any **Insured Persons** to obtain relief from any such stay or injunction.

K. Trade and Economic Sanctions

This **Policy** does not provide coverage for **Insureds**, transactions or that part of **Damages** or **Costs of Defense** that is uninsurable under the laws or regulations of the United States concerning trade or economic sanctions.

NonProfit ExecShield®

Directors, Officers and Organization Liability Insurance Coverage Section

CLAIMS MADE NOTICE FOR POLICY

NOTICE: THIS POLICY PROVIDES COVERAGE ON A CLAIMS MADE AND REPORTED BASIS. SUBJECT TO ITS TERMS, THIS POLICY APPLIES ONLY TO ANY CLAIM FIRST MADE AGAINST THE INSURED AND REPORTED TO THE INSURER DURING THE POLICY PERIOD OR ANY EXTENDED REPORTING PERIOD THAT MAY APPLY.

PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.

In consideration of the payment of the premium, in reliance on all statements in the **Application** and all other information provided to the **Insurer**, and subject to all provisions of this **Policy**, the **Insurer** and **Insureds** agree as follows:

I. Insuring Agreements

Directors, Officers and Organization Liability Coverage

- A. This **Policy** shall pay on behalf of the **Insureds** all **Costs of Defense** and/or **Damages** up to the Limit of Liability applicable to this coverage section arising from any **Claim** first made against the **Insureds** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. of the Common Policy Terms and Conditions Section of this **Policy**, for any actual or alleged **Wrongful Act** committed subsequent to the **Prior Acts Date**; except and to the extent that the **Insured Entity** has indemnified the **Insured Persons**.
- B. This **Policy** shall pay on behalf of the **Insured Entity** all **Costs of Defense** and/or **Damages** up to the Limit of Liability applicable to this coverage section arising from any **Claim** that is first made against the **Insured Persons** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. of the Common Policy Terms and Conditions Section of this **Policy**, for any actual or alleged **Wrongful Act** committed subsequent to the **Prior Acts Date**; but only to the extent that the **Insured Entity** has indemnified the **Insured Persons** for such **Costs of Defense** and/or **Damages** as permitted by law.
- C. This **Policy** shall pay on behalf of the **Insured Entity** all **Costs of Defense** and/or **Damages** up to the Limit of Liability applicable to this coverage section arising from any **Claim** that is first made against the **Insured Entity** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. of the Common Policy Terms and Conditions Section of this **Policy**, for any actual or alleged **Wrongful Act** committed subsequent to the **Prior Acts Date**.

II. Priority of Payments

In the event of **Costs of Defense** and/or **Damages** arising from any **Claim** for which payment is due under the provisions of this coverage section, then the **Insurer** shall:

1. first, pay such non-indemnifiable **Costs of Defense** and/or **Damages** for which coverage is provided under Insuring Agreement I. A. of this coverage section; and
2. then, with respect to whatever remaining amount of the applicable Limit of Liability stated in Item 5. of the Declarations is available after payment of such non-indemnifiable **Costs of Defense** and/or **Damages**, at the written request of the Chief Executive Officer of the **Named Insured**, either pay or withhold payment of such other **Costs of Defense** and/or **Damages** for which coverage is provided under this coverage section.

In the event the **Insurer** withholds payment pursuant to sub-paragraph 2. above, then the **Insurer** shall at such time and in such manner as shall be set forth in written instructions of the Chief Executive Officer of the **Named Insured**, remit such payment to the **Named Insured** or directly to the **Insured Persons**.

III. Definitions

In addition to the Definitions listed in section III. of the Common Policy Terms and Conditions Section, whenever printed in boldface type, and whether in the singular or plural form, in this coverage section the following terms shall have the meanings indicated below.

Claim means:

1. a written demand for monetary or non-monetary relief including, but not limited to, a civil, criminal, administrative, or arbitration proceeding arising from a **Wrongful Act**;
2. a civil, criminal, administrative, or arbitration proceeding for monetary or non-monetary relief filed against an **Insured** arising from a **Wrongful Act** which is commenced by: (a) service of a complaint or similar pleading; (b) return of an indictment, information or similar document; or (c) receipt or filing of a notice of charges; or

3. a written request made by a claimant to the **Named Insured** to toll or waive the statute of limitations for any **Wrongful Act**;

provided, however, the term **Claim** shall not include any grievance or arbitration subject to a collective bargaining agreement with respect to Insuring Agreement I. C. of this coverage section. A **Claim** shall be deemed to have been first made at the time notice of the **Claim** is first received by any **Insured**.

Costs of Defense means reasonable and necessary fees, costs and expenses (including premiums for any appeal bond, attachment bond or similar bond, but without any obligation to apply for or furnish any such bond) resulting solely from the investigation, adjustment, defense and appeal of a covered **Claim** against the **Insureds**, but excluding salaries, wages, overhead or benefit expenses associated with any **Insured**, or any amount covered by the duty to defend obligation of any other insurer.

Damages means:

1. a monetary judgment, award or settlement; or
2. pre-judgment interest and post-judgment interest;

provided, however, **Damages** shall not include:

- a. taxes, civil or criminal fines, sanctions or penalties imposed by law; or
- b. costs incurred by any **Insured** to make any building or property more accessible or accommodating to any disabled person; or
- c. commissions, bonuses, deferred compensation, profit sharing or severance payments; or
- d. disgorgement or restitution payment by or on behalf of any **Insured**, including disgorgement or restitution of amounts retained, obtained, or acquired by an **Insured** and any settlement payment arising from any actual or alleged amount that an **Insured** improperly retained, obtained, or acquired; or
- e. any matter deemed uninsurable under the law pursuant to which this **Policy** shall be construed.

Insured Person means any past, present or future duly elected or appointed directors, trustees, officers, employees (including part time, seasonal and temporary individuals), volunteers, or committee or staff members of the **Insured Entity**. An independent contractor is not an **Insured Person** under this coverage section.

Insured means any **Insured Person** or any **Insured Entity**.

Loss means **Damages** and **Costs of Defense**.

Outside Entity means:

1. a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code of 1986, including amendments thereto; or
2. any other entity organized for a religious or charitable purpose under any nonprofit organization act or statute; or
3. any other entity, partnership, joint venture or other organization listed by endorsement to this **Policy**.

Personal Injury means any actual or alleged defamation, invasion of privacy, wrongful entry, eviction, false arrest, false imprisonment, malicious prosecution, infringement of copyright or trademark, unauthorized use of title, plagiarism, or misappropriation of ideas.

Prior Acts Date means the date stated in Item 8. i. of the Declarations.

Wrongful Act means any actual or alleged breach of duty, neglect, error, misstatement, misleading statement, omission or act, including **Personal Injury**, by:

1. any **Insured Person** in their respective capacities as such, or any matter claimed against them by reason of their status as **Insured Persons** with the **Insured Entity**;
2. any **Insured Person** arising out of their serving as a director, officer, trustee, or governor of an **Outside Entity** in such capacity, but only if such service is at the specific request or direction of the **Insured Entity**; or
3. the **Insured Entity**.

IV. Exclusions

In addition to the Exclusions listed in section IV. of the Common Policy Terms and Conditions Section, the **Insurer** shall not be liable to make any payment for **Loss** in connection with a **Claim** made against any **Insured**:

- A. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving the actual or alleged gaining of any profit or advantage to which an **Insured** was not legally entitled; provided, however, this exclusion shall not apply unless a judgment or other final adjudication adverse to any of the **Insureds** in such **Claim** shall establish that such **Insureds** gained such profit or advantage to which an **Insured** was not legally entitled;
- B. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged criminal or deliberate fraudulent act; provided, however, this exclusion shall not apply unless a judgment or other final adjudication adverse to any of the **Insureds** in such **Claim** shall establish that such **Insureds** committed such criminal or deliberate fraudulent act;

- C. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged payments to an **Insured** of any remuneration without the previous approval of the governing bodies of the **Insured Entity**, which payment without such previous approval shall be held to have been illegal; provided, however, this exclusion shall not apply unless a judgment or other final adjudication adverse to any of the **Insureds** in such **Claim** shall establish that such **Insureds** received such payments;

Solely with respect to Exclusions A., B., and C. of this coverage section, the **Insurer** will provide a defense for any such **Claims**, without any liability by the **Insurer** to pay such sums that any **Insured** shall become legally obligated to pay as **Damages**.

- D. for:
1. physical damage to or destruction of any tangible property, including the loss of use thereof; or
 2. bodily injury, sickness, disease, death, assault or battery of any person;
- E. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged violation of the Employee Retirement Income Security Act of 1974, including amendments thereto;
- F. by, on behalf of, or in the right of any **Insured** in any capacity; provided, however, this exclusion does not apply to:
1. any **Claim** that is a derivative action brought or maintained on behalf of the **Insured Entity**, and only if such **Claim** is instigated and continued totally independent of, and totally without the solicitation of, or assistance of, or participation of, or intervention of any **Insured**; or
 2. any **Claim** by any **Insured Person** pursuant to any federal or state whistleblower protection statute or any regulation promulgated thereunder; provided, however, this exception does not apply to any **Claim** arising from any actual or potential employment relationship with the **Insured Entity**;
- G. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any **Wrongful Act** of an **Insured Person** serving in the capacity as a director, officers, trustee, employee, member or governor of any other entity other than an **Insured Entity** or an **Outside Entity**, or by reason of their status as a director, officer, trustee, employee, member or governor of such other entity;
- H. for any **Wrongful Act** arising out of an **Insured** serving as a director, officer, trustee, employee, member or governor of an **Outside Entity**:
1. if such **Claim** is brought by the **Outside Entity** or any of its directors or officers, or by any security holder of the **Outside Entity**, whether directly or derivatively, unless such security holder's **Claim** is instigated and continued totally independent of, and totally without the solicitation of, or assistance of, or participation of, or intervention of the **Outside Entity**, any of its directors or officers, or any **Insured**; or
 2. if such **Wrongful Act** occurred prior to the inception date of the first Nonprofit Directors, Officers and Organization Liability Insurance Policy issued by the **Insurer** to the **Named Insured**, which has been continuously renewed and maintained in effect prior to the inception of this **Policy Period**; or
 3. to the extent such **Insured** is indemnified for such **Costs of Defense** and **Damages** by the **Outside Entity**, and/or to the extent that there is coverage in whole or in part under any policy issued to or for the benefit of any **Outside Entity** or its directors or officers, then this **Policy** shall apply only to **Loss** excess over such indemnification and insurance(if applicable);
- I. based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any actual or alleged employment-related torts, including but not limited to: failure to hire; wrongful dismissal; wrongful discharge; wrongful termination; retaliation; harassment; discrimination; violation of civil rights; or violation of any federal, state, local or foreign laws, whether statutory or common law, concerning discrimination or harassment;
- J. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any federal, state, local or foreign wage and hour laws, whether statutory or common law, including, without limitation, the Fair Labor Standards Act;
- K. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged breach of any oral or written contract or agreement; provided, however, this exclusion shall not apply to the extent that an **Insured Entity** would have been liable in the absence of the contract or agreement.

The **Wrongful Act** of an **Insured** shall not be imputed to any other **Insured** for the purpose of determining the applicability of the Exclusions.

V. Other Insurance

Unless specifically stated otherwise, the coverage afforded under this coverage section shall apply only as excess over any other valid and collectible insurance, unless such other insurance is specifically written as excess insurance over the Separate Limit of Liability or Shared Limit of Liability applicable to this coverage section. This coverage section shall be excess of any other valid and collectible insurance pursuant to which any other insurer has a duty to defend a **Claim** for which this coverage section may be obligated to pay **Costs of Defense** and/or **Damages**.

NonProfit ExecShield®

Employment Practices Liability Insurance Coverage Section

CLAIMS MADE NOTICE FOR POLICY

NOTICE: THIS POLICY PROVIDES COVERAGE ON A CLAIMS MADE AND REPORTED BASIS. SUBJECT TO ITS TERMS, THIS POLICY APPLIES ONLY TO ANY CLAIM FIRST MADE AGAINST THE INSUREDS AND REPORTED TO THE INSURER DURING THE POLICY PERIOD OR ANY EXTENDED REPORTING PERIOD THAT MAY APPLY.

PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.

In consideration of the payment of the premium, in reliance on all statements in the **Application** and all other information provided to the **Insurer**, and subject to all provisions of this **Policy**, the **Insurer** and **Insureds** agree as follows:

I. Insuring Agreements

A. Wrongful Employment Acts Coverage

This **Policy** shall pay on behalf of the **Insureds** all **Costs of Defense** and/or **Damages** up to the Limit of Liability applicable to this coverage section arising from any **Employment Claim** first made against the **Insureds** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. of the Common Policy Terms and Conditions Section of this **Policy**, for any actual or alleged **Wrongful Employment Act** committed subsequent to the **Prior Acts Date**.

B. Third Party Wrongful Acts Coverage

If purchased as indicated in Item 3. ii. of the Declarations, this **Policy** shall pay on behalf of the **Insureds** all **Costs of Defense** and/or **Damages** up to the Limit of Liability applicable to this coverage section arising from any **Third Party Claim** that is first made against the **Insureds** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. of the Common Policy Terms and Conditions Section of this **Policy**, for any actual or alleged **Third Party Wrongful Act** committed subsequent to the **Prior Acts Date**.

II. Automatic Extended Reporting Period for Former Directors or Officers

In addition to section II. Extended Reporting Periods of the Common Policy Terms and Conditions Section, the following shall apply:

1. If the **Named Insured** cancels or refuses to renew this coverage section and the **Named Insured** has not purchased any similar insurance policy(ies), Optional Extended Reporting Period or Run-Off Period from the **Insurer** or any other insurance carrier, there shall be a three (3) year automatic extension of the reporting period for this coverage section for any **Claim** that is first made against any **Former Director or Officer** during such three (3) year period but only with respect to any **Wrongful Act** of any **Former Director or Officer** fully occurring prior to the end of the **Policy Period** and which is otherwise covered by this coverage section. Such three (3) year period of time shall be referred to as the Automatic Extended Reporting Period for Former Directors and Officers. There shall be no additional premium for the Automatic Extended Reporting Period for Former Directors and Officers.
2. The Limit of Liability for the Automatic Extended Reporting Period for Former Directors and Officers shall be part of, and not in addition to, the Limit of Liability stated in Item 5. of the Declarations for this coverage section.

III. Definitions

In addition to the Definitions listed in section III. of the Common Policy Terms and Conditions Section, whenever printed in boldface type, and whether in the singular or plural form, in this coverage section the following terms shall have the meanings indicated below.

Claim means:

1. an **Employment Claim**; or
2. if purchased as indicated in Item 3. ii. of the Declarations, a **Third Party Claim**.

A **Claim** shall be deemed to have been first made at the time notice of the **Claim** is first received by any **Insured**.

Claimant means:

1. a past or present **Employee** of, or applicant for employment with, an **Insured Entity**; or
2. a governmental entity or agency, including the Equal Employment Opportunity Commission or similar federal, state or local or foreign agency, when acting on behalf of or for the benefit of a past or present **Employee** or applicant for employment with an **Insured Entity**.

Costs of Defense means reasonable and necessary fees, costs and expenses (including premiums for any appeal bond, attachment bond or similar bond, but without any obligation to apply for or furnish any such bond) resulting solely from the investigation, adjustment, defense and appeal of a covered **Claim** against the **Insureds**, but excluding salaries, wages, overhead or benefit expenses associated with any **Insured**, or any amount covered by the duty to defend obligation of any other insurer.

Damages means:

1. a monetary judgment, award or settlement, including front pay, back pay, emotional distress; or
2. pre-judgment interest and post-judgment interest;

provided, however, **Damages** shall not include:

- a. taxes (provided, however, that the **Insurer** will reimburse an **Insured Entity** for any employer share of payroll taxes on any portion of damages or settlements which constitute back pay otherwise considered **Damages**), civil or criminal fines, or penalties imposed by law; or
- b. payment of insurance, disability, pension, health or other plan benefits claimed by or on behalf of any former or current **Employee**, or that an **Employee** would have been entitled to as an **Employee** had the **Insured Entity** provided the **Employee** with a continuation of insurance; or
- c. costs incurred by any **Insured** to make any building or property more accessible or accommodating to any disabled person; or
- d. commissions, bonuses, profit sharing or severance payments, unpaid wages, or amounts due pursuant to any federal, state, local or foreign wage and hour laws whether statutory or common law, including without limitation, the Fair Labor Standards Act, including any amendments thereto, and/or any payroll policies, practices and procedures, including the reimbursement of claimed business expenses; or
- e. future wages or benefits of any reinstated **Employee** or wages or benefits associated with the continued employment of an **Employee**; or
- f. any matter deemed uninsurable under the law pursuant to which this **Policy** is construed.

Employee means an individual whose labor or service is engaged by and directed by an **Insured Entity**, including any: part-time, volunteer, intern, leased, seasonal or temporary individual; or committee or staff member. An independent contractor is not an **Employee**. An individual's employment status shall be determined as of the date of the **Wrongful Act**.

Employment Claim means:

1. a written demand for monetary or non-monetary relief, including but not limited to, any demand for mediation, arbitration or any other alternative dispute resolution process, brought by or on behalf of a **Claimant**, arising from a **Wrongful Employment Act**;
2. a civil, administrative, regulatory investigation or arbitration proceeding brought by or on behalf of a **Claimant**, arising from a **Wrongful Employment Act**; or
3. a written request made by a **Claimant** to an **Insured** to toll or waive the statute of limitations for any **Wrongful Employment Act**;

provided, however, the term **Employment Claim** shall not include any grievance or arbitration based upon, arising out of, directly or indirectly resulting from, or in consequence of, or in any way involving a collective bargaining agreement.

Former Director or Officer means any duly elected or appointed director, trustee or officer of an **Insured Entity** solely while acting within such capacity for an **Insured Entity**; who did not serve as a duly elected or appointed director or officer at the time of the cancellation or non-renewal of this **Policy**.

Harassment means unwelcome sexual or non-sexual advances, requests for sexual or non-sexual favors or other verbal, visual or physical conduct of a sexual or non-sexual nature that:

1. are explicitly or implicitly made a condition of employment;
2. are used as a basis for employment decisions; or
3. create a work environment that interferes with performance.

Harassment also means assault or battery, but only if related to a charge of sexual harassment.

Insured means any **Insured Person** or any **Insured Entity**.

Insured Person means:

1. any past, present or future duly elected or appointed director, trustee or officer of an **Insured Entity** while acting solely within the course and scope of employment with an **Insured Entity**;
2. an **Employee** while acting solely within the course and scope of employment with an **Insured Entity**; or
3. an independent contractor for an **Insured Entity**, but only if the **Insured Entity** provides indemnification to such individual in the same manner as that provided to the **Insured Entity's** employees.

Loss means **Damages** and **Costs of Defense**.

Prior Acts Date means the date stated in Item 8. ii. of the Declarations.

Retaliation means any actual or alleged retaliatory act of an **Insured** alleged to be in response to the actual or attempted exercise by an **Employee** or applicant for employment with the **Insured Entity**, of any right that such **Employee** or applicant has under law, including without limitation, any of the following activities:

1. the disclosure or threat of disclosure by an **Employee** to a superior or to any governmental agency of any act by an **Insured** which act is alleged to be a violation of any federal, state, local or foreign law, common or statutory, or any rule or regulation promulgated thereunder;
2. the exercise of rights under workers' compensation laws, the Family and Medical Leave Act, the Americans with Disabilities Act or any other law relating to employee rights;
3. the filing of any claim under the Federal False Claims Act or any other federal, state, local or foreign whistle-blower law;
4. strikes of an **Employee** or applicant, or any legally-protected work stoppage or slowdown; or
5. assisting, cooperating or testifying in any proceeding or investigation into whether an **Insured** violated any federal, state, local or foreign law, common or statutory, or any rule or regulation promulgated thereunder.

Third Party Claim means:

1. a written demand for monetary or non-monetary relief, including but not limited to, any demand for mediation, arbitration or any other alternative dispute resolution process; arising from a **Third Party Wrongful Act**, which is solely brought and maintained by or on behalf of a **Third Party Claimant** against an **Insured**;
2. a civil proceeding which is: (a) brought against an **Insured**; and (b) arising from a **Third Party Wrongful Act**; and (c) which is solely brought and maintained by or on behalf of a **Third Party Claimant** against whom a **Third Party Wrongful Act** is alleged to have been committed; or
3. a written request made by or on behalf of a **Third Party Claimant** to an **Insured** to toll or waive the statute of limitations for any **Third Party Wrongful Act**.

Third Party Claimant means any natural person(s) who is a client, customer, vendor, service provider or other business invitee of any **Insured Entity**, other than an **Employee** or applicant for employment with the **Insured Entity**.

Third Party Wrongful Act means any actual or alleged:

1. discrimination prohibited by applicable law;
 2. harassment on the basis of race, color, religion, age, gender, disability, pregnancy, national origin, sexual orientation, gender identity or expression, or marital status; or
 3. harassment in the form of unwelcome sexual advances, requests for sexual favors or other verbal, visual or physical conduct of a sexual nature;
- committed by an **Insured**.

Workplace Bullying means verbal, written or visual intimidation, harassment or threats by an **Insured** while acting solely within the course and scope of employment with an **Insured Entity**, including but not limited to, an **Insured's** use of social media to intimidate, harass or threaten.

Wrongful Act means:

1. a **Wrongful Employment Act**;
2. if purchased as indicated in Item 3. ii. of the Declarations, a **Third Party Wrongful Act**.

Wrongful Employment Act means any actual or alleged:

1. wrongful dismissal, discharge or termination of employment (either actual or constructive), including breach of an implied agreement to employ;
2. **Harassment**;
3. harassment on the basis of race, color, religion, age, gender, disability, pregnancy, national origin, sexual orientation, gender identity or expression, or marital status (including but not limited to: **Workplace Bullying**);
4. discrimination (including, but not limited to, discrimination based upon age, gender, gender identity or expression, race, color, national origin, religion, sexual orientation or preference, genetic information, pregnancy, marital status, military status or disability or any other basis prohibited by law);
5. **Retaliation**;
6. employment-related misrepresentation;
7. employment-related libel, slander, humiliation or defamation or invasion of privacy;
8. false arrest or false imprisonment;
9. wrongful failure to employ or promote;
10. wrongful deprivation of career opportunity, wrongful demotion or negligent evaluation, including the giving of negative or defamatory statements in connection with an employee reference;

11. wrongful discipline;
 12. failure to grant tenure; or
 13. negligent hiring, retention, training or supervision, infliction of emotional distress or mental anguish, failure to provide or enforce adequate or consistent employment-related corporate policies and procedures, or violation of an individual's civil rights;
- committed by an **Insured**.

IV. Exclusions

In addition to the Exclusions listed in section IV. of the Common Policy Terms and Conditions Section, the **Insurer** shall not be liable to make any payment for **Loss** in connection with a **Claim** made against any **Insured**:

- A. for:
 1. damage to or destruction of any tangible property, including the loss of use thereof, or
 2. bodily injury, sickness, disease, and death; provided, however, solely with respect to a **Claim** for a **Wrongful Employment Act**, this exclusion shall not apply to: emotional distress, mental anguish, defamation, invasion of privacy or humiliation;
- B. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged violation of the Employee Retirement Income Security Act of 1974, including amendments thereto; or any similar provisions of state statutory law or common law;
- C. for any actual or alleged breach of any oral or written contract or agreement; or for any amounts owed pursuant to an oral or written contract or agreement; whether brought as breach of contract, misrepresentation or otherwise;
- D. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged violation of the Worker's Adjustment and Retraining Notification Act, the Consolidated Omnibus Budget Reconciliation Act of 1985, the Occupational Safety and Health Act, the National Labor Relations Act, or the Health Insurance Portability and Accountability Act of 1996, including amendments thereto, or any similar provisions of any federal, state, local or foreign statutory or common law; provided, however, this exclusion shall not apply to any **Claim** for any actual or alleged retaliatory treatment of an **Employee** by the **Insured** on account of the **Employee's** exercise of rights pursuant to any such law;
- E. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged obligations under any workers' compensation, social security, disability benefits, or unemployment compensation law, including amendments thereto, or any similar provisions of any federal, state, local or foreign statutory or common law; provided, however, this exclusion shall not apply to any **Claim** for any actual or alleged retaliatory treatment of an **Employee** by the **Insured** on account of the **Employee's** exercise of rights pursuant to any such law;
- F. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged violations of any federal, state, local or foreign wage and hour laws, whether statutory or common law, including, without limitation, the Fair Labor Standards Act including any amendments thereto; provided, however, this exclusion shall not apply to any **Claim** for any amounts owed under the Equal Pay Act of 1963, or any similar provisions of any federal, state, local or foreign law prohibiting pay discrimination or for any actual or alleged retaliatory treatment of an **Employee** by the **Insured** on account of the **Employee's** exercise of rights pursuant to any such law or amounts owed under the Equal Pay Act of 1963.

V. General Conditions

Other Insurance

Unless specifically stated otherwise, the coverage afforded under this coverage section for:

1. an **Employment Claim** shall be primary to any other valid and collectible insurance policy (including coverage afforded by any other **Coverage Section**), provided that with respect to that portion of an **Employment Claim** made against any leased or temporary employee or independent contractor, **Costs of Defense** and/or **Damages** payable on behalf of such leased or temporary employee or independent contractor under this coverage section shall be excess of, and shall not contribute with, any other valid and collectible policy (other than a policy that is issued specifically as excess of the insurance afforded by this coverage section), regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise; and
2. a **Third Party Claim** shall be excess of, and shall not contribute with, any other valid and collectible insurance policy (other than a policy that is issued specifically as excess of the insurance afforded by this coverage section); regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.

Friends of Idaho Public Television, Inc.

FRIENDS OF IDAHO PUBLIC TELEVISION, INC.
ENDOWMENT FUND

Statement of Investment Policy and Fiduciary Management



Approved by
Friends of Idaho Public Television, Inc.
February 20, 2018

BACKGROUND

On September 23, 1985, the Idaho Public Television Foundation, Inc. (IdahoPTV Foundation) was incorporated under the laws of the State of Idaho as a nonprofit organization exempt from Federal tax under section 501(c)(3) of the Internal Revenue Code. The Idaho Public Television Foundation's exclusive purposes are:

- to benefit Idaho Public Television (IdahoPTV), an agency of the state of Idaho, directly responsible to the Idaho State Board of Education, which holds the licenses for five analog and five digital public television stations in Idaho: KAID, Boise; KISU, Pocatello; KUID, Moscow; KIPT, Twin Falls; and KCDT, Coeur d'Alene and 43 rural television translators;
- to provide an annual scholarship to a student studying broadcasting at an Idaho state college or university; and
- to solicit, receive, and expend funds and property to carry out any or all purposes of the IdahoPTV Foundation.

The IdahoPTV Foundation endeavors and is empowered to solicit financial support for IdahoPTV. This includes the management and investment of the securities, monies, and real and personal property it receives. When necessary, the IdahoPTV Foundation shall expend its resources, beyond that required to cover the costs of its operation, to and for the benefit of IdahoPTV. The IdahoPTV Foundation is governed by a Board of Directors.

IdahoPTV is a multimedia, statewide television network. The Idaho State Board of Education is the licensee board for Idaho Public Television and has statutory responsibility for all programming and other operating decisions. In addition, IdahoPTV has three regional, non-profit designation corporation boards, the Friends of Idaho Public Television: KAID/KIPT, Inc.; the Friends of Idaho Public Television: KISU, Inc.; and the Friends of Idaho Public Television: KUID/KCDT, Inc., each with a separate Board of Directors.

In 1989, the IdahoPTV Foundation began discussions about establishing an endowment, to recognize the importance of long-term financial vitality and stability for IdahoPTV. By 1991, the IdahoPTV Foundation created the Endowment, and on October 30, 1992, adopted amendments to a previously presented Endowment resolution. The IdahoPTV Foundation set aside an Endowment to receive, invest, and expend various gifts and other income for the benefit of IdahoPTV and its support of local productions, programming, and capital needs. The initial goal was to raise \$3,000,000 by the end of the year 2000. Due to drastic reduction in federal (Corporation for Public Broadcasting) funding and flat state operational funding, the initial deadline goal was moved up to June 30, 1999, and the initial fund's goal was successfully raised by that date.

On March 27, 2008, the Friends of Idaho Public Television, KAID/KIPT, Inc., together with the Friends of Idaho Public Television, KISU, Inc., and the Friends of Idaho Public Television, KUID/KCDT, Inc., merged with the Idaho Public Television Foundation, Inc.

Also on this date, the Idaho Public Television Foundation, Inc. was renamed Friends of Idaho Public Television, Inc. (Friends).

INTRODUCTION

The Friends Board of Directors (Board) approved this policy through careful study and consideration of the returns and risks associated with investment strategies in relation to the current and projected income needs of Idaho Public Television and activities, which are supported by the Friends. This policy provides a structure within which the Endowment may be managed to achieve the long-term

investment and financial objectives of the Friends. The Friends is committed to ensuring the assets

of the Endowment are fully diversified into appropriate and viable asset categories, which are managed efficiently and prudently by qualified investment personnel.

The assets are intended to be held as a permanent endowment.

The responsibility for implementation of the investment policy shall be delegated to the Endowment Committee appointed by the Board.

MISSION

The mission of the Friends is to provide sustainable annual support for special projects, student scholarships, and programming initiatives that surpass general operating expenditures of Idaho Public Television provided by the State of Idaho. This annual support will be funded by a combination of capital appreciation of the Endowment and by annual fundraising efforts. The Friends endeavors that:

1. Gifts and other support designated by donors to the Friends shall be so honored.
2. The Board shall approve a Spending Policy regarding the amount of financial support it will provide to IdahoPTV on an annual basis.
3. The Board shall encourage funding opportunities to benefit IdahoPTV.

RESPONSIBILITIES

Board

1. The Board shall approve all investment policies.
2. The Board President shall select board members to serve on the Endowment Committee.
3. The Board may hire an Investment Consultant¹, or other experts, to advise in stated responsibilities.
4. The Endowment Committee shall recommend to the Board, for the Board's approval, the hiring of Investment Managers² or other experts.

Friends Endowment Committee (Endowment Committee)

1. The Endowment Committee's primary responsibilities are to ensure compliance with the approved investment policies, to determine the optimum asset allocation of the investment portfolio and to select, monitor and evaluate Investment Managers. The Endowment Committee will meet quarterly to review the status of investments and Investment Manager performance.

¹ An **Investment Consultant** does not manage assets, but rather oversees the Investment Managers, develops strategies and monitors results. Investment Consultants also provide a third party, objective analysis of all issues relating to the investments.

² An **Investment Manager** is responsible for day to day management of assets through buying and selling of securities.

2. The Endowment Committee will be responsible for reviewing, implementing, and monitoring existing policies, but must have approval from the Board for any changes in existing policy or adoption of new policies.
3. The Endowment Committee will have the authority to carry out Investment Manager terminations for reasons identified within this policy. Any Investment Manager terminations for reasons outside this policy will be brought before the Board for approval.
4. The Endowment Committee will be allowed to reinvest proceeds from a terminated Investment Manager into an index fund or ETF of the same asset class for a period of up to one year until the Board of Directors ratifies a new Investment Manager. The Board of Directors must approve an extension of the one-year Investment Manager search while said funds remain in the index fund or the same asset class ETF.

Investment Consultant

The Investment Consultant will assist in developing the Investment Policy Statement, provide potential model asset allocation strategies, monitor all Investment Manager activities, prepare performance reports and communicate with the Board through the Endowment Committee on all aspects of the portfolio.

Investment Manager

1. Investment Managers are responsible for the day-to-day investment management of assets in accordance with this Statement of Investment Policy and Fiduciary Management.
2. All Investment Managers are expected to conform to all State and Federal laws governing the practice of investment management.

General

1. The master schedule for Board and Endowment Committee meetings may be adopted on or before December 31st for the upcoming calendar year. The IdahoPTV General Manager will provide a copy of the meeting schedule to the Investment Consultant. The Endowment Committee may meet no sooner than four weeks following the end of the quarter.
2. All communication³ regarding the Endowment and including the Investment Consultant shall be copied to (at the minimum) the Investment Consultant, the Board President, the Board Treasurer, the Endowment Committee, the IdahoPTV General Manager, and the IdahoPTV Director of Fiscal Affairs.
3. The IdahoPTV General Manager will be responsible for communicating any changes to the distribution list.

³ **Communication** shall be defined as information, data, and correspondence that is essential to the Client/Investment Consultant relationship. This includes the distribution of performance reports, asset allocation studies, manager research, and any other documents that affect the implementation of existing policy or adoption of new policy. In addition, this includes any organizational changes of the **Friends of Idaho Public Television, Inc.** that could affect investment procedures, contact lists, or meeting schedules.

INVESTMENT OBJECTIVES

In recognition of the importance of a strong Endowment for the long-term financial vitality and stability of Idaho Public Television, the Friends of Idaho Public Television, Inc. has set aside a permanent Endowment to receive, invest, and expend various gifts and other income for the benefit of IdahoPTV and its support of local productions, programming, and capital needs. The objectives are:

1. Maximize the Endowment's total returns within appropriate risk constraints to support the mission of the Friends of Idaho Public Television, Inc.
2. Maintain the Endowment's purchasing power in perpetuity to ensure spending rates that keep pace with inflation.
3. The annual target return shall be to exceed the policy portfolio benchmark, net of fees over a trailing 5-year period.

Time Horizon

The Friends established a perpetual endowment and has no fixed investment time horizon. As such, the assets within the Endowment will be managed with a long term focus that will emphasize a total return philosophy.

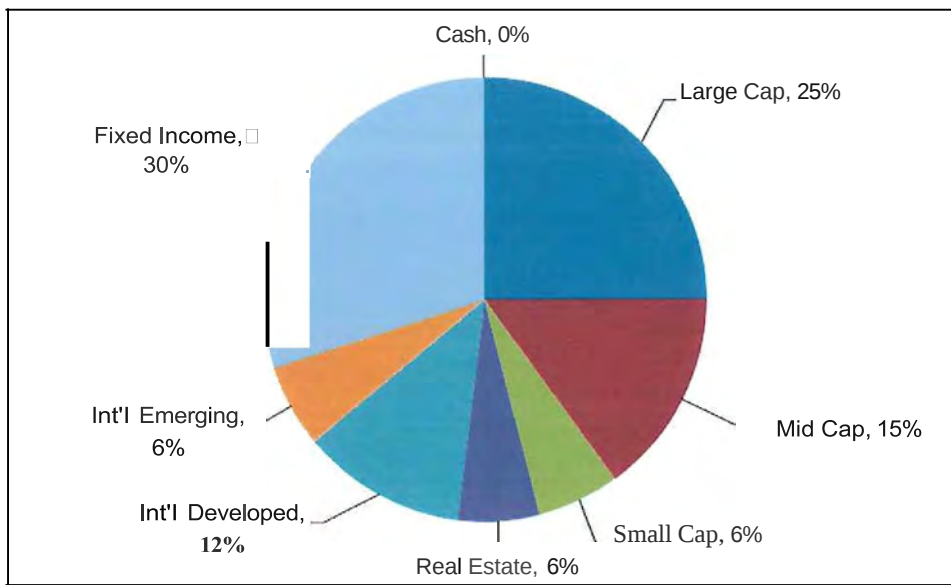
Risk Tolerance

The Board recognizes that assumption of risk is warranted in order to achieve the stated objectives, accommodate the spending policy and keep pace with inflation. The Board shall determine how much risk can be tolerated by assessing the probability of achieving, exceeding, or falling short of these objectives.

ASSET ALLOCATION

The Endowment Committee worked with the Investment Consultant to review various asset allocation models to determine the most optimal diversification relative to the stated goals and objectives of the Friends. As such, both passive and active management styles may be employed in all asset classes.

The Strategic Asset Allocation model will be reviewed every three years to determine its continued relevance to the goals and objectives of the Friends.



The following will provide the policy percentages for the Endowment asset allocation and limits on upper and lower constraints:

Strategic Asset Allocation

Asset Class	Lower Limit		Policy		Upper Limit
US Large Cap Equity	21%		25%		29%
US Mid Cap Equity	12%		15%		18%
US Small Cap Equity	4%		6%		8%
Real Estate	4%		6%		8%
Int'l Equity Developed	9%		12%		15%
Int'l Equity Emerging	4%		6%		8%
US Fixed Income	22%		30%		38%
Cash Equivalents	N/A		0%		3%

The Endowment Committee shall determine that each asset class included in the Strategic Allocation has a separate set of security selection guidelines and performance benchmarks, which are approved by the Board and issued to the Investment Managers responsible for each segment of the Endowment portfolio. The Endowment Committee will review security selection guidelines and performance benchmarks every three years during any regular or special meeting. The Endowment Committee will annually review the strategic asset allocation.

Rebalancing Policy

It is the goal of the Friends to maintain the Strategic Asset Allocation long term to achieve the stated investment objectives. Over time, certain assets will perform better or worse than others, which will create an imbalance in the allocation. Therefore, upper and lower

constraints have been established to allow for variations in asset performance. Once an asset class has breached an upper or lower limit for ten consecutive business days, the Investment Consultant will notify, within the next three business days, the Endowment Committee Chair to discuss a recommendation. Typically, when a limit has been breached, the Investment Consultant will rebalance the portfolio within the approved policy allocation.

Cash Flows

Cash inflows and outflows of the Endowment shall be designated as opportunities for rebalancing. By way of example, cash inflows shall be allocated to the asset class or classes that are the most underweighted relative to policy allocation (see page 6). Cash outflows shall be taken from the asset class or classes that are the most over weighted relative to policy allocation (see page 6).

Performance Benchmarks

The performance benchmarks that will be used in order to evaluate manager return for the asset classes are as follows:

<i>Asset Class</i>	<i>Index</i>	<i>McMillen Universe</i>
US Large Cap Equity	Russell 1000 ⁴	Large Cap
US Mid Cap Equity	Russell Mid Ca ^{m5}	Mid Cap
US Small Cap Equity	Russell 2000 ⁶	Small Ca
Real Estate	NAREIT ⁷	Real Estate
US Fixed Income	Barclav's A ate ⁸	Intermediate Fixed
Int'l Equity Developed	MSCI EAFE ⁹	Developed International
Int'l Equity Emerging	MSCI Emerninn ¹⁰	Emerging International

⁴ The Russell 1000 includes the largest 1000 securities in the Russell 3000. The Russell 1000 Index offers investors access to the extensive large-cap segment of the U.S. equity universe representing approximately 92% of the U.S. market

⁵ The Russell Mid Cap Index is comprised of the 800 smallest stocks from the Russell 1000 Index, representing approximately 22% of the U.S. equity market capitalization.

⁶ The Russell 2000 index represents the smallest 2000 stocks within the Russell 3000 index. As of September 30, 2017, the weighted average market capitalization for a company in the index is around \$2.2 billion; the median market cap is \$854 million.

⁷ A real estate index that includes both all equity properties plus all properties, which have been de-leveraged making it a large universe of properties.

⁸ Covers the U.S. investment-grade fixed-rate bond market, including government and credit securities, agency mortgage pass-through securities, asset-backed securities and commercial mortgage-based securities. To qualify for inclusion, a bond or security must have at least one year to final maturity, rated investment grade Baa3 or better, dollar denominated, non-convertible, fixed rate and be publicly issued.

⁹ A free float-adjusted market capitalization index that is designed to measure developed market equity performance excluding the U.S. and Canada. As of April 2002, the MSCI EAFE index consisted of 21 developed countries in Europe Australasia and the Far East.

¹⁰ A free float-adjusted market capitalization index that is designed to measure equity market performance in the global emerging markets.

	#1 52% R3000 30% Barclay's Aggregate 18% MSCI EAFE #2 25% Russell 1000 15% Russell Mid Cap 6% Russell 2000 6% NAREIT Equity 30% Barclay's Aggregate 12% MSCI EAFE 6% MSCI Emerging	
Total Portfolio Benchmark/Policy¹¹		N/A

INVESTMENT MANAGER EXPECTATIONS

Each Investment Manager will be measured by the Investment Consultant against their asset class benchmark and universe. Active management will provide a varied level of relative performance. Therefore, a trailing 5-year period will be given to each Investment Manager in order to measure their return relative to their assigned benchmark. In certain instances, such as an Investment Manager drifting from the stated asset class or basic philosophy, a review may be required within a market cycle. The Endowment Committee will review the performance results quarterly and make any recommended changes deemed necessary to the Board for approval.

Additionally, all active Investment Managers will be expected to achieve and maintain the following relative performance over a trailing 5-year period:

Asset Class	Return Above Benchmark	<u>Minimum Universe¹²</u>	<u>Ranking</u>
US Equity	75 basis points*, net of fees		40 th percentile
Fixed Income	25 basis points*, net of fees		40 th percentile
International Equity	75 basis points*, net of fees		40 th percentile

* 100 basis points= 1.00%

INVESTMENT MANAGER GUIDELINES

The managed portfolios will be well diversified and consist of readily marketable securities in the open market. Investments may consist of short, medium and/or long-term securities. All Investment Managers are expected to conform to all State and Federal laws governing the practice of investment management. Each Investment Manager will be provided with this Statement of Investment Policy and will be expected to return a signed copy to the Investment Consultant. The Investment Consultant will provide a copy to the IdahoPTV General Manager. Additionally, Investment Managers are expected to use prudence in their decision making for Endowment assets and adhere to the investment mandate as agreed to.

¹¹ The Total Portfolio Benchmark/Policy is the return of the weighted sub asset class benchmarks at the portfolio level.

¹² A universe is a group of Investment Managers managing assets within the same asset class. This group is used to compare how hired Investment Managers are performing relative to their peer group, or Universe.

Allowable Investments

All securities are expected to be publicly traded and may consist of:

1. Common stocks
2. Preferred stocks
3. REITs
4. International stocks
5. U.S. Corporate bonds and notes
6. U.S. Government T-bill, notes, bonds and TIPS
7. U.S. Agency bonds
8. Commercial paper or other money market instruments
9. ETF and ETNs (passive investments)
10. Warrants that are received by an issuer but not purchased by an Investment Manager.

Concentration

Investment Managers will be allowed to purchase up to 5%, at cost, of their portfolio's current value in any one security. Positions may not grow beyond 8% of the total value of their portfolio at any time unless authorization is provided by the Investment Consultant. The Investment Consultant will notify the Investment Committee Chair if any deviation of this Concentration policy has been allowed.

Proxy Voting

Investment Managers are authorized by the Board to vote all proxies held by them. It is expected that Investment Managers vote in a manner that represents the interests of the Friends as defined within this policy.

Fixed Income

Holdings will consist primarily of investment grade securities. These may include, but are not limited to, U.S. Treasury or federal agency obligations, corporate debt instruments, or first mortgage loans. A minimum of 50% of investments will be rated Aaa (Moody's rating) or AAA (S&P). In the event that both Moody's and S&P downgrade U.S. Treasury debt below AAA, the minimum AAA weighting will be equal to the Barclay's Aggregate index. In addition, a minimum of 85% will be rated A by Moody's or A S&P's. A maximum of 5% of fixed income assets may be invested in less than investment grade (Baa) or (BBB) bonds. ETFs will also be allowable investments for fixed income assets.

Duration

The Fixed Income Investment Manager will be allowed to manage the portfolio's effective duration but will be limited to + or - 1/2 year of the Barclay's Aggregate Bond Index duration. If the portfolio moves outside these parameters due to market conditions or if the Investment Manager wants to change the duration outside of + or - 1/2 year, the Investment Manager will contact the Investment Consultant for review.

The Investment Consultant will notify the Endowment Committee Chair if any deviation of this Duration policy has been allowed.

Cash and Equivalents

All cash investments will be limited to bank CDs, U.S. Government securities, commercial paper rated A-1 (S&P) or P-1 (Moody's), and repurchase agreements collateralized by U.S. Government securities. Additionally, cash may be placed with the Master Custodian¹³ in a money market fund.

Restricted Securities

The following list of securities or transactions are not allowed to be held or conducted without the Board's prior written approval:

1. Hedge Funds
2. Private Equity Funds or investments
3. Venture Capital Funds or investments
4. Direct Real Estate investments
5. Short sales
6. Commodities
7. Private placements
8. Any use of leverage
9. Derivative transactions
10. Options contracts

Investment Manager Controls

Each Investment Manager will be monitored by the Investment Consultant on an ongoing basis, including both performance measurement and material changes within the investment management company. The Endowment Committee, for reasons stated below, may terminate the Investment Manager without the Board's approval:

1. Returns below the 40th percentile in universe over a trailing 5-year period
2. Equity returns that do not produce an additional 75 basis points net of fees (0.75%) above benchmark over a trailing 5-year period
3. Fixed Income returns that do not produce an additional 25 basis points net of fees (0.25%) above benchmark over a trailing 5-year period
4. Key personnel changes
5. Firm sale, merger or change of management control
6. Significant style shift
7. Regulatory action
8. Changes within the Friends

INVESTMENT PERFORMANCE REVIEW

1. At least quarterly, the Endowment Committee will meet to review portfolio performance presented by the Investment Consultant.
2. All investments must comply with a donor's requirements and restrictions.

¹³ A Master Custodian is a bank, agent, trust company, or other organization responsible for safeguarding financial assets.

3. Quarterly the Endowment Committee Chair or Investment Consultant will present an overview of investment performance to the Board.
4. The Endowment Committee Chair and Investment Consultant will meet with the Board at least once annually to review the status of investments and Investment Manager performance.
5. Review will consist of measurement of Investment Manager performance compared to benchmarks and universes. In addition, a review of material changes with Investment Managers will be discussed.

CLASSIFICATION OF CONTRIBUTIONS

According to GASS and *FASB: Accounting for Contributions Received and Contributions Made*, there are three types of contributions - permanently restricted, temporarily restricted, and unrestricted - determination of classification is based on the existence or absence of donor-imposed restrictions.

1. **Permanently Restricted** - Contributions and other inflows of assets whose use by the Friends is limited by donor-imposed stipulations that neither expire by passage of time nor can be fulfilled or otherwise removed by actions of the organization.
2. **Temporarily Restricted** - Contributions and other inflows of assets whose use by the Friends is limited by donor-imposed stipulations that either expire by passage of time or can be fulfilled and removed by actions of the Friends pursuant to those stipulations.
3. **Unrestricted** - Contributions and other inflows of assets that are neither permanently restricted nor temporarily restricted by donor-imposed stipulations.

All cash contributions received that are designated to be Endowment assets shall be deposited into the contributions bank account. The non-cash assets received as contributions should be monetized as soon as possible and the sale proceeds deposited into the contributions bank account. It is the intent of this policy that the proceeds residing in the contributions bank account are transferred to the cash account of the Endowment investment portfolio (Investment Cash Account) to be allocated in accordance with this policy.

SPENDING POLICY

The Friends set aside an Endowment to receive, invest, and expend various gifts and other income for the benefit of IdahoPTV and its support of local productions, programming, and capital needs.

The Friends intends to distribute up to 5% of the total fair market value of the Endowment annually to benefit IdahoPTV. The final distribution shall be rounded down to the nearest one hundred dollars. Funds will be distributed from the unrestricted portion of the Endowment. The annual value of the portfolio will be determined by averaging the balance over the prior three years. December 31st will be the determination date for such valuations. This averaging of the portfolio balance will smooth the annual distributions and help achieve predictable spending levels. Proposals for use of Endowment assets shall be presented to the Board by IdahoPTV for determination. In addition, the Board will recommend recipients of the Endowment proceeds in accordance with the Spending Policy. As part of this annual budget process beginning in April, the actual percentage will be recommended each year by the Endowment Committee and approved by the Board.

If the dollars approved are not spent within the fiscal year they are made available, the Board may choose to:

1. Roll unspent dollars into the next fiscal year and add them to the new funds allowable for spending, or
2. Absorb unspent dollars into the Endowment, which will not be added to next year's spending balance.

ANNUAL AUDIT

The Friends is required to have an independent audit conducted by the Legislative Auditor, State of Idaho for each fiscal year.

The final annual audited financial statements and auditor's letter to management will be distributed annually to the Board, by the IdahoPTV Director of Fiscal Affairs, within 60 days of Legislature approval.

ACCEPTANCE

This Statement of Investment Policy and Fiduciary Management will be reviewed and reconfirmed or revised on an annual basis by the Board.

The Board hereby approves this Statement of Investment Policy and Fiduciary Management on February 20, 2018.

Authorized Signature:

Signp
J-r?lf lb-
 Printed Name

Friends of Idaho Public Television, Inc. Board President
 Title

Friends of Idaho Public Television, Inc.
 Exact Name on Account

- ADOPTED October 30, 1992
- 2nd Revision - February 20, 2002
- 3rd Revision - January 8, 2007
- 4th Revision - February 6, 2009
- 5th Revision - January 27, 2010
- 6th Revision - February 15, 2011
- 7th Revision - November 16, 2011
- 8th Revision - February 7, 2012
- 9th Revision - February 18, 2014
- 10th Revision - February 20 2018

ARTICLES OF AMENDMENT
TO THE
ARTICLES OF INCORPORATION
OF
FRIENDS OF IDAHO PUBLIC TELEVISION, INC.

Pursuant to the provisions of Section 30-30-702(2) of the Idaho Nonprofit Corporation Act, the undersigned corporation adopts the following Articles of Amendment to the Articles of Incorporation:

The following Amendments to Articles of Incorporation were adopted by the Board of Directors of the corporation on _____, 2022, in the manner prescribed by the Idaho Nonprofit Corporation Act. These amendments to the corporation's articles of incorporation do not require approval by members or any persons other than the Board of Directors.

Article II of the Articles of Incorporation is amended to read as follows:

ARTICLE II

The location and post office address of this nonprofit corporation shall be at:

1455 N Orchard St.
Boise ID 83706

The registered agent shall be the General Manager of Idaho Public Television.

Article IX of the Articles of Incorporation is amended to read as follows:

ARTICLE IX

The incorporators and initial board of directors were the same consisting of the following persons:

Ralph J. McAdams
1718 N. 17th Street
Boise ID 83702

Jack A. Schlaefle
2863 N. Mountain Road
Boise ID 83703

Larry G. Selland
2902 Lancaster Drive
Boise ID 83702

Janet S. Hay
328 Winther Blvd.
Nampa ID 83651

Scott R. Simplot
577 W. Curling Drive
Boise ID 83702

The current board of directors consists of the following persons:

Katherine Aiken 799 Indian Hills Dr Moscow ID 83843	Diane Bilyeu 514 Featherie Dr Pocatello ID 83204	Todd Christensen Meridian ID todd.christensen@capedcu.com
Trent Clark 90 N 2nd E Soda Springs ID 83276	Jenny Emery Davidson PO Box 3184 Hailey ID 83333	Jame` Davis 1934 N Willamette Dr Post Falls ID 83854
Norma Douglas Box 1567 Sun Valley ID 83353	John V. Evans, Jr. 218 Churchill Dr Burley ID 83318	Joy Fisher 1674 Appaloosa Moscow ID 83843

Jeff Fox 962 Cypress Way Twin Falls ID 83301	Bev Harad 3675 W Quail Heights Ct Boise ID 83703	Ron Hatzenbuehler 306 S 7th Avenue Pocatello ID 83201-5815
Jennifer Henderson 1015 N 12th St Boise ID 83702	Liza Leonard 345 E 24th St Idaho Falls ID 83404	Amy Lientz 15 N 3192 E Idaho Falls ID 83401
Mckinsey Lyon 1325 E Monterey Dr Boise ID 83706	Craig Meadows PO Box 1617 Boise ID 83701	Judy Meyer 10500 Hayden Bluff Ln Hayden Lake ID 83835
Randy Morgan 13691 W Elmspring St Boise ID 83713	Con Paulos PO Box 5856 Twin Falls ID 83303	Stacy Pearson 1602 N 17th St Boise ID 83702
Sharon Price 1098 E 25th St Idaho Falls ID 83404	Brad Rasor 11466 N Green Tree Ct Hayden ID 83835	Troy St. Pierre 5174 E Sawmill Way Boise ID 83716
Heather Stegner 2908 S Brookridge Way Boise ID 83716	Jeff Tucker, General Manager Idaho Public Television 1455 N Orchard St Boise ID 83706	Lupe Wissel 1252 W Lago Bello Dr Eagle ID 83616
Brian Wonderlich 714 Hearthstone Dr Boise ID 83702		

DATED: _____, 2022.

Friends of Idaho Public Television, Inc.

By: _____
Its President

Attest:

By: _____
Its Secretary

**RESTATED
ARTICLES OF INCORPORATION
OF
IDAHO PUBLIC TELEVISION FOUNDATION, INC.**

Pursuant to the provisions of Section 30-3-94 of the Idaho Nonprofit Corporation Act, the undersigned corporation adopts the following Restated Articles of Incorporation:

First: The name of the corporation is changed to "Friends of Idaho Public Television, Inc."

Second: The following Restated Articles of Incorporation were adopted by the Board of Directors of the corporation on January 22, 2008, in the manner prescribed by the Idaho Nonprofit Corporation Act. These Restated Articles of Incorporation contain amendments to the corporation's articles of incorporation which do not require approval by members or any persons other than the Board of Directors.

ARTICLE I

The name of this corporation shall be the Friends of Idaho Public Television, Inc. (herein referred to as the corporation). This corporation shall be a nonprofit corporation and its duration shall be perpetual.

ARTICLE II

The location and post office address of this nonprofit corporation shall be at:

1455 N Orchard St.
Boise ID 83706

The registered agent shall be the Peter Morrill, General Manager.

ARTICLE III

The corporation shall have a board of directors, in which shall be vested all of the power and authority to supervise, control, direct and manage the property, affairs and activities of

RESTATED ARTICLES OF INCORPORATION 1

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the corporation. The rights, powers and privileges of the directors shall be fixed in the by-laws, except insofar as set forth herein. The by-laws of the corporation may, from time to time, be altered, amended, suspended, repealed or new by-laws adopted by a resolution adopted by a two-thirds majority of the entire board of directors of the corporation.

The number of directors shall not be fewer than four (4). The maximum number of directors will be fixed in the by-laws. The incorporators and initial board of directors are the same, and consist of those designated in Article IX of this document.

ARTICLE IV

The corporation shall have no members.

ARTICLE V

The exclusive purposes of this corporation are: (1) to benefit Idaho Public Television, an entity of the Idaho State Board of Education, state of Idaho, directly responsible to the Idaho State Board of Education, which operates the five public television stations in Idaho: KAID-TV, Boise, KISU-TV, Pocatello, KUID, Moscow, K!PT Twin Falls, and KCDT, Coeur d'Alene; (2) to provide an annual scholarship to a student studying broadcasting at an Idaho state college or university; and (3) to solicit, receive and expend funds and property to carry out any or all purposes of the corporation.

ARTICLE VI

No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its members, directors, officers or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for service rendered and to make payments and distributions in furtherance of the purposes set forth in Article V hereof.

No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

Notwithstanding any other provision of these Articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal

RESTATED ARTICLES OF INCORPORATION 2

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income tax under section 501(c) (3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under Section 170(c) (2) of the Internal Revenue Code, or corresponding sections of any future federal tax code.

ARTICLE VII

The corporation shall not be dissolved except following the favorable vote of a majority of the board of directors at a meeting duly called for that purpose. Upon dissolution, all assets belonging to the corporation, after due provision for any liabilities then outstanding and unpaid, shall be paid over to the license holder, Idaho State Board of Education, or to the State of Idaho. Any such assets not so disposed of shall be disposed of by the Fourth District Court in Ada County, exclusively for such purposes, or to such organization or organizations, as said court shall determine, which are organized and operated exclusively for such purposes.

ARTICLE VIII

No members of the board of directors and no officer duly appointed by the board shall have any personal liability for acts performed in his or her official capacity in good faith, nor shall any such director or officer be liable for nonfeasance or misfeasance in the performance of duties, but only in the case of malfeasance. The corporation shall indemnify the members of its board of directors, its officers, agents and employees against any and all expenses and liabilities, including attorney fees and other costs, which they or any of them incur in connection with any suit or suits which may be brought against them or any of them involving or pertaining to any of their official acts or duties (whether it be alleged that such acts are ultra vires or otherwise), provided only that in such suit or suits personal liability is finally established against them incident to any act of malfeasance on their part. This provision shall not be deemed to prevent compromise of any such litigation when such compromise is deemed advisable.

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ARTICLE IX

The incorporators and initial board of directors were the same consisting of the following persons:

Ralph J. McAdams
1718 N. 17th Street
Boise, ID 83702

Jack A. Schlaetle
2863 N. Mountain Road
Boise, ID 83703

Larry G. Selland
2902 Lancaster Drive
Boise, ID 83702

Janet S. Hay
328 Winther Blvd.
Nampa, ID 83651

Scott R. Simplot
577 W. Curling Drive
Boise, ID 83702

The current board of directors consists of the following persons:

DeVaun Anderson 1355 Holman Pocatello ID 83201	Laura Bettis 1111 N 9 th St Boise ID 83702	Eve Chandler 1206 N 24 th Boise ID 83702
Pat Costello 1126 King Rd Moscow ID 83843	John Crim 3514 Mountain View Dr Boise ID 83704	Lynn Davis 1527 Hollipark Idaho Falls ID 83402
Byron Defenbach PO Box 7608 Boise ID 83707	Jerry Evans 9125 W Donnybrook Ct Boise ID 83709	Joy Fisher 1674 Appaloosa Moscow ID 83843

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Ellie Hampton 586 Safstrom Pl Idaho Falls ID 83401	Bev Harad 3675 W Quail Heights Ct Boise ID 83703	Al Luray 94 Townsend Gulch Bellevue ID 83313
Judy Meyer 10500 Hayden Bluff Ln Hayden Lake ID 83835	Rebecca Morgan 2545 Marilyn Pocatello ID 83201	Peter Morrill General Manager Idaho Public Television 1455 N Orchard Boise ID 83706
Charles Mosier 231 Shasta Circle Orofino ID 83544	Jim Paxton 1340 S Orchard St Boise ID 83705	Christine Pharr 3639 Country Club Ct Lewiston ID 83501
Chuck Randolph Box 605 Caldwell ID 83606	Erna Rhinehart 2207 Crestline Dr Coeur d'Alene ID 83814	Barbara Roberts 1701 N 21 st St Boise ID 83702-0732
Bob Schreiber 3041 Juniper Dr American Falls ID 83211	Marilyn Shuler 5221 N Lakemont Ln Boise ID 83714	Ann Smart 3502 Buckskin Rd Coeur d'Alene ID 83814
Bob Sonnichsen US Bank 101 S Capitol Blvd, Ste 905 Boise ID 83702	Bob Stanton 11228 Ashburton Dr Boise ID 83709	Gayle Wilde PO Box 984 McCall ID 83638 1319 W 1st Meridian ID 83642
Cindy Williams Idaho Nevada CDFI, Inc. PO Box 44922 Boise ID 83711-0922		

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DATED: January 17, 2008.

Friends&Idaho Public Televis:on _____

sy C Q,
Its President

Attest:

By: Barbara Roberts
Its Secretary

RESTATED ARTICLES OF I1\JCORPORATION 6

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**BYLAWS
OF THE
FRIENDS OF IDAHO PUBLIC TELEVISION, INC.**

**SECTION ONE
OFFICE AND PURPOSES**

SECTION 1.1. Office. The principal office of the corporation shall be at 1455 North Orchard Street, Boise, ID 83706. The corporation may also have offices at such other places as the board of directors may from time to time appoint or the purposes of the corporation may require.

SECTION 1.2. Purposes. The purposes of the corporation shall be set forth in the Articles of Incorporation.

**SECTION TWO
MEMBERSHIP**

The corporation shall have no members.

**SECTION THREE
DIRECTORS**

SECTION 3.1. General Powers. The business and affairs of the corporation shall be managed and conducted and all corporate powers of the corporation shall be exercised by or under the authority of the board of directors not fewer than thirteen (13) nor more than fifty (50) in number.

SECTION 3.2. Board Representation. The board of directors of the corporation shall have broad community and geographic representation. Selections of directors will be from, but not limited to, representatives from the following: law, finance, education, arts, industry, agriculture, timber, mining and community. The general manager of IdahoPTV, or the general manager's designated representative, shall be an ex-officio non-voting member of the board of directors of the corporation acting in an advisory capacity consistent with regulatory guidelines.

Except as specified in these bylaws, ex-officio directors of the corporation shall have the voting privileges of regular directors. Additional ex-officio directors in a number no greater than three (3) may be appointed to the board of the corporation from time to time.

SECTION 3.3. Transition. At the date of filing with the Idaho Secretary of State the articles of merger of the Idaho Public Television Foundation, Inc. (the "Foundation") with

the Friends of Idaho Public Television, KAID/KIPT, Inc., Friends of Idaho Public Television, KISU, Inc., Friends of Idaho Public Television, KUID/KCDT, Inc., (collectively, these three entities are referenced as the “Merged Entities”) the directors of the corporation shall consist of the current directors of the Foundation and the Merged Entities who will fulfill their current terms in their new capacity as directors of the corporation. The additional directors will thereafter be elected by the Board of Directors from throughout the regions formerly represented by the Merged Entities (the “Regions”) with a minimum of three directors from each of the Regions and without regard to any term limits in effect for directors of the individual merged entities.

SECTION 3.4. Term. Following the transition period specified in Section 3.3, the term of office of each director, excluding ex-officio directors, shall be three (3) years with any director eligible for re-election, provided that no director shall serve more than three consecutive terms, except that the board may extend the term of any director elected as president, first vice president or second vice president so that such director’s term will not expire until one year following his or her completion of his or her service as president in order to allow for the succession stated in Sections 5.8 and 5.9 of these bylaws. All terms shall end at the annual meeting in which the term expires. Directors shall be elected with three classes each year, staggered in such a way as to ensure continuity of membership.

SECTION 3.5. Nominations. In the event a director resigns before his or her term has been completed, the Board Recruitment committee of the board of directors shall decide whether or not to nominate a replacement for that director at the next meeting of the board of directors. The Board Recruitment committee will prepare a list of nominees to be added to the board for a first three-year term at the annual meeting. The list of nominees shall be sent to each director not fewer than ten (10) days, nor more than fifty (50) days prior to the meeting at which the election is to be held. Additional nominations may be made by any director and presented at such meeting.

SECTION 3.6. Election. Election of directors of the corporation shall be at the annual meeting of the directors.

SECTION 3.7. Resignation. Any director may resign at any time by giving written notice of such resignation to the board of directors. Such resignation shall take effect at the time specified therein and acceptance shall not be necessary to make it effective.

SECTION 3.8. Attendance. Directors shall attend meetings unless excused by the President for good cause shown. Any director failing to attend two (2) unexcused duly scheduled meetings per year may, at the majority vote of the board of directors, be removed from office.

SECTION 3.9. Vacancies. Any vacancy in the board of directors during the year may be filled for the unexpired portion of the term by the board of directors then serving, although less than a quorum, by affirmative vote of the majority thereof.

SECTION 3.10. Emeritus Directors. The Board Recruitment Committee may nominate an Emeritus Director to be voted upon and elected by a majority of the Board, subject to the following qualifications:

- 1) The nominee shall have served nine (9) or more years as a director of the Friends Board.
- 2) The nominee shall express interest in becoming an Emeritus Director.
- 3) When elected the Emeritus Director shall maintain a current financial membership of The Friends of Idaho Public Television, either as an individual or a family membership.

An Emeritus Director may be invited to attend one (1) annual event in connection with the Annual Board Meeting to be recognized as an Emeritus Director. An Emeritus Director may provide assistance with events and activities in the Emeritus Director's geographical area, at the discretion of the Board. An Emeritus Director may provide assistance from time to time, at the discretion of the Board. An Emeritus Director is a non-voting director, and is not expected to attend Board Meetings. The Emeritus Director will be listed on the Board Roster and Letterhead of The Friends of Idaho Public Television.

SECTION FOUR **MEETINGS**

SECTION 4.1. Annual Meeting. The annual meeting of directors shall take place within ninety (90) days after the close of each fiscal year or at such time as the directors may by resolution select. At the annual meeting, the directors shall elect directors, elect officers and transact such other business as may be brought before the meeting.

SECTION 4.2. Special Meetings. Special meetings of the board of directors may be called by the president and must be called by the president on written request of three (3) or more directors.

SECTION 4.3. Notice of Meetings. Notice stating the place, day, and time of any director's meeting, and in case of a special director's meeting, the purpose or purposes for which the meeting is called, shall be delivered not fewer than ten (10) nor more than fifty (50) days before the date of the meeting either personally, by U.S. Mail or by such electronic means (e.g. fax, e-mail) as may be agreed by each director. Such notice shall be directed to each director at the address as it appears on the books or records of the corporation, unless they have filed with the secretary of the corporation a written request that notices shall be provided to another address or by another means designated on such request. In any case, notices shall be deemed delivered when they are deposited in the United States mail or otherwise processed for electronic transmission delivery such as by fax transmission and/or email.

SECTION 4.4. Quorum. At all meetings of the board of directors, one half (1/2) of the elected board of directors shall be necessary and sufficient to constitute a quorum for the transaction of business and the act of a majority of the board present at any meeting at which there is a quorum shall be the act of the board of directors except as may be otherwise specifically provided by statute or by these bylaws. If at any meeting there is less than a quorum present, a majority of those present may adjourn the meeting from time to time without further notice to any absent directors as the case may be.

SECTION 4.5. Power to Appoint Executive Committee. The board of directors may appoint an executive committee consisting of the elected corporation officers and, as an ex-officio non-voting member, the general manager of IdahoPTV. The executive committee, to the extent provided by resolution and subject to applicable state and federal laws and regulations, shall have and exercise the authority of the board of directors in the management and affairs (including power to invest monies) of the corporation between meetings of the board. All provisions of the bylaws shall apply to the executive committee in the same manner and to the same extent as they apply to the board of directors.

SECTION 4.6. Special Telephone Meetings. Special meetings of the board of directors may be called by or at the request of the president of the board or any director if such special meeting is held by conference call or by Idaho Public Television teleconference and a quorum directors are present for such telephone/conference meeting.

SECTION 4.7. Action in Meetings. Any actions which might be taken at a meeting of the board of directors may be taken without a meeting if a record or memorandum thereof be made, in writing and signed by all directors of the board as the case may be.

SECTION 4.8. Regular Meetings. The Board of Directors will meet not fewer than four (4) times a year at approximately three-month intervals. One of these will be the Annual Meeting. Meetings may be held at any location within the state of Idaho. Directors are encouraged to travel to various locations if possible. In order to provide an opportunity for the cultivation, recognition and stewardship of friends of IdahoPTV, all locations will be connected at each meeting by telephone or videoconferencing.

SECTION FIVE OFFICERS

SECTION 5.1. Number. The officers of the corporation shall be president, first vice president, second vice president, secretary, treasurer, and such other officers with such other powers and duties not inconsistent with the bylaws as may be appointed and determined by the board of directors.

SECTION 5.2. Nominations. Officers shall be elected from a slate prepared by the Board Recruitment committee. The slate shall be sent to each director at least twenty-one (21) days before the annual meeting of directors. Additional nominations may be made in

writing by at least three (3) cooperating directors. All nominations must be received by the chairperson of the Board Recruitment committee at least seven (7) days before the annual meeting in order to be considered at such meeting. The directors shall be presented with the slate for election.

SECTION 5.3. Election, Term of Office, and Qualifications. The president, first vice president, second vice president, secretary and treasurer shall be elected from such slate annually by the board of directors from among their members and the other officers shall be so elected from such slate annually by the board of directors from among the board membership as the board of directors may see fit, at each annual meeting of the board of directors; provided, however, that the initial officers of the corporation shall be elected at a special meeting of the board of directors called for that purpose. The General Manager of Idaho Public Television shall provide such administrative support to the secretary as may reasonably be requested. The President and each Vice President will reside in different Regions. Each officer elected shall serve until the next annual meeting of the board of directors, and/or the election and qualifications or his/her successor, but the President and both Vice Presidents will serve a single consecutive one-year term.

SECTION 5.4. Vacancies. In case of any office or board position of the corporation becomes vacant by death, resignation, retirement, disqualification, or any other cause, the majority of the board then in office, although less than a quorum, may elect an officer to fill such vacancy from a slate submitted by the nominating committee and the officer or director shall hold office and serve until the election and qualification of his/her successor.

SECTION 5.5. Removal. Any officer may be removed by the board of directors at any meeting thereof.

SECTION 5.6. Resignation. Any officer may resign by giving written notice to the board of directors, to the president, or to the Idaho Public Television general manager. Such resignation shall take effect at the time specified therein and acceptance shall not be necessary to make it effective.

SECTION 5.7. President. The president shall preside at all meetings of the board of directors and the executive committee. He/she shall have and exercise general charge and supervision of the officers of the corporation and shall do and perform such other duties as may be assigned to him/her by the board of directors. He/she shall appoint all committee chairpersons except the Endowment Committee and the Executive Committee, and shall serve ex-officio on all committees. He/she may sign any appropriate documents or papers of the corporation. The president shall have the general duties and powers of supervision and management usually vested in the office of president of a corporation.

SECTION 5.8. First Vice President. In the absence or disability of the president, the First Vice president shall perform all the duties of the president and in so acting shall have all the powers of the president. The First Vice president shall have such powers and duties as may be prescribed from time to time by the board of directors. In the usual course, the

First Vice President will be nominated as the President in the year following his or her service as First Vice President.

SECTION 5.9. Second Vice President. In the absence or disability of the president and the First Vice President, the Second Vice President shall perform all the duties of the president and in so acting shall have all the powers of the President. The Second Vice President shall have such powers and duties as may be prescribed from time to time by the board of directors. In the usual course, the Second Vice President will be nominated as the First Vice President in the year following his or her service as Second Vice President.

SECTION 5.10. Secretary. The secretary shall have charge of such books, documents, and papers as the board of directors may determine. He/she shall attend and keep the minutes of all meetings of the board of directors. He/she shall keep a record, containing the names, alphabetically arranged, of all persons who are directors, showing their mailing addresses, and such book shall be open for inspection as prescribed by law. He/she may sign any appropriate documents or papers of the corporation, and when so authorized or ordered by the board of directors, he/she may affix the seal of the corporation. He/she shall, in general, perform all the duties incidental to the office of secretary, subject to the control of the board of directors, and shall do and perform such other duties as may be assigned to him/her by the board of directors.

SECTION 5.11. Treasurer. The treasurer shall have charge of all funds, property, and securities of the corporation, subject to such regulations as may be imposed by the board of directors. He/she may be required to give bond for the faithful performance of his/her duties, in such sum and with such sureties as the board of directors may require. When necessary or proper, he/she may endorse on behalf of the corporation for collection checks, notes, and other obligations, and shall deposit the same to the credit of the corporation at such bank or banks or depository as the board of directors may designate. He/she shall sign all receipts and vouchers and, together with such other officer or officers, if any, as shall be designated by the board of directors, he/she shall sign all checks of the corporation and all bills of exchange and promissory notes issued by the corporation, except in cases where the signing and execution thereof shall be expressly designated by the board of directors or by these bylaws to some other officer or agent of the corporation. He/she shall make such payments as may be necessary or proper to be made on behalf of the corporation. He/she shall enter regularly on the books of the corporation to be kept by him/her for that purpose, full and accurate account of all monies and obligations received and paid or incurred by him/her for or on account of the corporation, and shall exhibit such books at all reasonable times to any board member on application at the offices of the corporation. He/she shall furnish a financial statement at each meeting of the board of directors. He/she shall, in general, perform all the duties incidental to the office of treasurer, subject to the control of the board of directors, and the Treasurer shall chair the Endowment Committee.

SECTION 5.12. Compensation. Directors shall not receive any compensation for their services, but by resolution of the board, a reasonable sum for expenses of attendance may be allowed for attendance at each regular or special meeting of the board. No officer shall receive compensation for serving as an officer of the corporation.

**SECTION SIX
STANDING COMMITTEES**

SECTION 6.1. Enumeration and General Rules. Committees to help in carrying out the work of the Corporation will be appointed as necessary by the President. The following are the Standing Committees: Advocacy, Board Recruitment, Endowment, Executive, and Marketing/Development. Standing Committees shall meet at least quarterly, either in association with Director's meetings or at other times. Every director will serve on at least one standing committee. The Board Recruitment committee will recommend to the Executive committee the committee assignments for new directors based on the preference expressed by the new board director, geographic representation, past experience of the director, critical needs of the board, and size of the existing committees. New board directors will be contacted to confirm their interest in the committee prior to making the recommendation to the Executive committee. The Executive committee will make the appointment to the committee(s) and notify the board director. Directors may serve on more than one committee. Committee members may participate in meetings electronically as necessary. The Board may elect persons to serve on the committees who are not directors of the Board of Directors in a number not to exceed a majority of that committee. The General Manager of IdahoPTV shall designate IdahoPTV employees and others, with the President's consent, to provide support and other administrative services for all committees in a manner consistent with the provisions of any operating agreement between the corporation and IdahoPTV.

SECTION 6.2. Executive Committee. There shall be an executive committee, composed of the officers, which shall have the powers of the board of directors between meetings. The actions of the executive committee shall be submitted to the board for ratification at its next meeting.

SECTION 6.3. Advocacy. To develop and implement strategies for supporting the mission and service of IdahoPTV before lawmakers and the general public through testimony before local, state and national legislative committees, meeting with lawmakers, developing a volunteer speaker's bureau, providing volunteer support for Idaho Public Television, and such other measures as may help to advance the Idaho Public Television mission through advocacy.

SECTION 6.4. Board Recruitment. To recommend policies on director participation, giving, and involvement, to facilitate a periodic review of Board performance at least every three years, to conduct Board planning and director training, and to present slates of officers and directors at the Annual Meeting of the Board of Directors that represent

diverse people and geographic regions and meet the mission of the Corporation in the roles of advocacy, board recruitment, endowment, and marketing/development. This committee will organize Board trainings, retreats, and strategic planning.

SECTION 6.5. Endowment Committee. The Endowment Committee shall be chaired by the Treasurer of the Board and will include the General Manager of IdahoPTV as a non-voting ex-officio member. The committee will implement financial and fiscal policy consistent with all applicable regulatory requirements for all funds donated to the corporation for the support of Idaho Public Television by individuals, corporations, or foundations, make such funds available to Idaho Public Television on a timely basis, and satisfy itself that contributed funds are properly disbursed. It will regularly report on the status of receipts, funds, and investments to the Board of Directors. The Endowment Committee shall have charge of funds held by the Corporation or any appurtenant Foundation.

SECTION 6.6. Marketing/Development. The Marketing/Development committee will include as an ex-officio, non-voting member the Marketing/Development Director of Idaho Public Television. This committee will identify and develop financial support for Idaho Public Television from individuals, corporations, and foundations through peer identification and review, cultivation, stewardship, gift solicitation, and such other measures as may help to advance the Idaho Public Television mission through funds development.

SECTION 6.7. Special Committees. Special committees shall be appointed by the president with the approval of the executive committee which shall designate their powers and term of each committee's appointment.

SECTION SEVEN VOTING STOCK HELD BY THE CORPORATION

Unless other wise ordered by the board of directors, the president shall have full power and authority on behalf of the corporation to vote either in person or by proxy at any meeting of stockholders of any corporation in which this corporation may hold stock, and at any such meeting may possess and exercise all of the rights and powers incidental to the ownership of such stock with which, as the owner thereof, this corporation might have possessed and exercised if present. The board of directors may confer like powers upon any other person and may revoke any such powers as granted at its pleasure.

SECTION EIGHT FISCAL YEAR

The fiscal year of the corporation shall commence on July 1 of each year and end on June 30.

SECTION NINE
PROHIBITION AGAINST SHARING OF CORPORATE EARNINGS

No board member, officer of, employee of, or member of a committee or person connected with the corporation, or any other private individual shall receive at any time any of the net earnings or pecuniary profit from the operations of the corporation; and no such person or persons shall be entitled to share in the distribution of any of the corporation assets upon the dissolution of the corporation. All directors of the corporation shall be deemed to have expressly consented and agreed that upon such dissolution or winding up of the affairs of the corporation, whether voluntary or involuntary, the assets of the corporation, after all debts have been satisfied, then remaining in the hands of the board of directors shall be distributed, transferred, conveyed, delivered and paid over, in such amounts as set forth in SECTION VII of the Restated Articles of Incorporation.

SECTION TEN
INDEMNIFICATION

No director of the Board of Directors and no officer duly appointed by the Board shall have any personal liability for acts performed in his official capacity in good faith, nor shall any such director or officer be liable for nonfeasance or misfeasance in the performance of his duties, but only in case of malfeasance. The corporation shall indemnify the directors of its Board of Directors, its officers, and agents against any and all expenses and liabilities, including attorney's fees and other costs, which they or any of them incur in connection with any suit or suits which may be brought against them or any of them involving or pertaining to any of their official acts or duties (which it be alleged that such acts are ultra vires or otherwise), provided only that in such suit or suits no personal liability is finally established against them incident to any act of malfeasance on their part. This provision shall not be deemed to prevent compromise of any such litigation when such compromise is deemed advisable.

SECTION ELEVEN
EMPLOYEES

The corporation shall have no employees. At the discretion of the board, it may contract for the administrative and other services necessary to maintain its affairs from Idaho Public Television or from outside agencies, professionals, institutions or consultants.

SECTION TWELVE
AMENDMENTS

Amendments to these Bylaws shall be approved by a two-thirds majority vote of the directors of the Board: 1) at any meeting, provided that notice of consideration of the proposed amendment has been given at least seven calendar days in advance of the meeting or 2) by email or written ballot.

SECTION THIRTEEN
DISSOLUTION

The corporation shall not be dissolved except following the favorable vote of two-thirds of the directors having voting rights at a meeting duly called for the purpose. Upon dissolution all assets belonging to the corporation, after due provision for any liabilities then outstanding and unpaid, shall be paid first to any successor corporation and if none to Idaho Public Television or its successor in interest, if any. If Idaho Public Television is no longer in existence and has no successor in interest, then the net assets shall be paid over to the Idaho State Board of Education to provide public television broadcasting services to the residents of Idaho.

Revision History:
January 22, 2008
May 21, 2013
August 20, 2013
November 14, 2013
February 18, 2014
November 18, 2014
May 26, 2015
August 14, 2017
November 19, 2019

The Friends of Idaho Public Television, Inc.

Conflicts of Interest Policy

A. **Purpose.** The purpose of this Conflicts of Interest Policy is to protect The Friends of Idaho Public Television, Inc.'s ("Friends of IPTV") interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer, director or committee member of the Friends of IPTV. Such transactions may include services provided by the Friends of IPTV, purchase of services and/or tangibles from a vendor; and/or access to specialized or privileged information which can be used for personal gain. This policy is intended to supplement but not replace any Idaho laws governing conflicts of interest applicable to nonprofit and charitable corporations.

B. **Applicability.** This Policy applies to any transaction or arrangement between the Friends of IPTV and any "interested person".

An "interested person" is a director, officer or member of a committee with board-delegated powers who has a direct or indirect "financial interest".

A "financial interest" is:

1. An ownership or investment interest in any entity with which the Friends of IPTV has a transaction or arrangement;
2. A compensation arrangement with the Friends of IPTV or with any entity or individual with which the Friends of IPTV has a transaction or arrangement; or
3. Being an officer, director, employee or agent of any entity or individual with which the Friends of IPTV has a transaction or arrangement.

Compensation includes direct and indirect remuneration and gifts or favors which are substantial in nature.

C. **Determination of a Conflict of Interest.** With respect to any proposed transaction or arrangement between the Friends of IPTV and any entity or individual being considered by the board of directors or any committee with board-delegated powers:

1. Any interested person shall disclose any financial interest and all material facts related thereto to the board or committee as soon as the interested person becomes aware of a possible conflict of interest.
2. Upon the disclosure by an interested person of a financial interest and all material facts relating thereto and discussion with the interested person, he or she shall leave the meeting while the remaining members of the board or committee discuss the matter and determine, by majority vote without the interested person voting,

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whether or not the financial interest of the interested person constitutes a conflict of interest.

D. Addressing a Conflict of Interest. If a conflict of interest is determined to exist, then the board or committee shall:

1. Require the interested person to leave the meeting during the discussion of, and the vote on, the transaction or arrangement that results in the conflict of interest; provided, however, that the interested person may make a presentation at the meeting prior to leaving;
2. Appoint, if it deems appropriate, a non-interested person or committee to investigate alternatives to the proposed transaction or arrangement; and
3. Determine, by a majority vote without the interested person voting, that the transaction or arrangement is in the Friends of IPTV's best interests and for its own benefit; is fair and reasonable to the Friends of IPTV, and, after exercising due diligence, determine that the Friends of IPTV cannot obtain a more advantageous transaction or arrangement with reasonable efforts under the circumstances.

Any interested person who violates this Conflict of Interest Policy shall be subject to appropriate discipline, including removal from office.

E. Recording Conflicts of Interest. The minutes of all board meetings and the meetings of all committees with board-delegated powers shall include:

1. The names of the persons who disclose financial interests, the nature of the financial interests and whether the board or committee determined that there was a conflict of interest; and
2. The names of the persons who were present for discussions and votes relating to the transaction or arrangement; the content of these discussions, including any alternatives to the proposed transaction or arrangement; and a record of the vote.

F. Distribution of Conflict of Interest Policy.

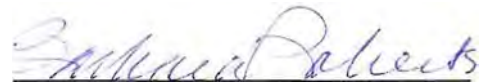
1. At the first board meeting following the annual board meeting, and at the first meeting of each committee with board-delegated powers following the annual board meeting, a copy of the Friends of IPTV's current Conflicts of Interest Policy shall be distributed to all directors and committee members.
2. On or before the date of the second board or committee meeting following the annual board meeting, each director and committee member shall sign and return to the secretary of the board a written statement that he or she:
 - a. Has received a copy of the Conflicts of Interest Policy;
 - b. Has read and understands the Policy;

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- c. Agrees to comply with the Policy;
- d. Understands that the Policy applies to all committees and subcommittees having board-delegated powers; and
- e. Understands that the Friends of IPTV is a charitable organization and that in order to maintain its tax-exempt status, it must continuously engage primarily **in** activities which accomplish one or more of its tax-exempt purposes.

G. Periodic Reviews. At the first board meeting following the annual board meeting, and at the first meeting of each committee with board-delegated powers following the annual board meeting, and at such other times as the board or committee may deem appropriate, the board or committee shall conduct a review of the Friends of IPTV's activities to ensure that the Friends of **IPTV** is operating in a manner consistent with accomplishing its charitable purposes and that its operations do not result **in** private inurement or impermissible benefit to private interests.

Adopted by the Board of Directors of The Friends of Idaho Public Television, Inc. on February 6, 2009.

A handwritten signature in blue ink, reading "Barbara Roberts", is written over a horizontal line.

Barbara Roberts, Secretary

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The Friends of Idaho Public Television, Inc.

Conflicts of Interest Statement

The undersigned hereby states that he or she is an officer, director or committee member of The Friends of Idaho Public Television, Inc. ("Friends of IPTV") and that he or she:

- a. has received a copy of the Friends of IPTV's Conflicts of Interest Policy;
- b. has read and understands the Policy;
- c. agrees to comply with the Policy;
- d. understands that the Policy applies to all committees and subcommittees having board-delegated powers;
- e. understands that the Friends of IPTV is a charitable organization and that in order to maintain its tax-exempt status, **it** must continuously engage primarily in activities which accomplish one or more of its tax-exempt purposes; and
- f. recognizes the need to maintain confidentiality regarding information he or she might receive as an officer, director or committee member regarding the activities of the Friends ofIPTV.

The undersigned hereby states that, to the best of his or her knowledge and belief, he or she is not in a position of possible conflict of interest with the Friends of IPTV except as stated below:

<u>Name of Organization</u>	<u>Position Held</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Dated: _____

20_____

Signature