

Dear Senators MORTIMER, Thayn, Buckner-Webb, and  
Representatives DEMORDAUNT, VanOrden, Pence:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
State Board of Education - State Department of Education:

IDAPA 08.02.03 - Rules Governing Thoroughness - Temporary and Proposed Rule (Docket No.  
08-0203-1508);

IDAPA 08.02.03 - Rules Governing Thoroughness - Proposed Rule (Docket No. 08-0203-1509);

IDAPA 08.02.03 - Rules Governing Thoroughness - Proposed Rule (Docket No. 08-0203-1510);

IDAPA 08.02.03 - Rules Governing Thoroughness - Proposed Rule (Docket No. 08-0203-1511).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 11/06/2015. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/08/2015.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Education Committee and the House Education Committee

**FROM:** Principal Legislative Research Analyst - Brooke Brouman

**DATE:** October 20, 2015

**SUBJECT:** State Board of Education - State Department of Education

IDAPA 08.02.03 - Rules Governing Thoroughness - Temporary and Proposed Rule (Docket No. 08-0203-1508)

IDAPA 08.02.03 - Rules Governing Thoroughness - Proposed Rule (Docket No. 08-0203-1509)

IDAPA 08.02.03 - Rules Governing Thoroughness - Proposed Rule (Docket No. 08-0203-1510)

IDAPA 08.02.03 - Rules Governing Thoroughness - Proposed Rule (Docket No. 08-0203-1511)

#### **(1) Rules Governing Thoroughness - Temporary and Proposed Rule (Docket No. 08-0203-1508)**

The Department of Education submits Notice of Temporary and Proposed Rulemaking that specifies the total timeline from the determination that a student needs special education and related services to the date of implementation of the initial IEP shall not exceed 30 days, with no exclusions or extensions of time.

The Department's proposed rule appears to be authorized by Section 33-105, Idaho Code.

#### **(2) Rules Governing Thoroughness - Proposed Rule (Docket No. 08-0203-1509)**

The Department of Education submits Notice of Proposed Rulemaking relating to Rules Governing Thoroughness. The proposed rule updates several documents incorporated by reference relating to Idaho Content Standards adopted by the State Board of Education on August 13, 2015, defines the terms "Interdisciplinary Study" and "Project Based Learning," and adds "arts" to the "humanities" credit completion requirements for high school graduation.

The Department's proposed rule appears to be authorized by Section 33-105, Idaho Code.

#### **(3) Rules Governing Thoroughness - Proposed Rule (Docket No. 08-0203-1510)**

The Department of Education submits Notice of Proposed Rulemaking that adds physical education to a list of subject areas for which curricular materials are adopted. The Department states that physical education has been a part of a scheduled review process for over the past decade.

The Department's proposed rule appears to be authorized by Section 33-105, Idaho Code.

**(4) Rules Governing Thoroughness - Proposed Rule (Docket No. 08-0203-1511)**

The Department of Education submits Notice of Proposed Rulemaking that eliminates references to the Idaho English Language Assessment Achievement Standards document and updates the definition of "Achievement Standards" as it relates to the Idaho English Language Assessment.

The Department's proposed rule appears to be authorized by Section 33-105, Idaho Code.

cc: State Board of Education - State Department of Education  
Jo Ann Bujarski

**IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

**08.02.03 - RULES GOVERNING THOROUGHNESS**

**DOCKET NO. 08-0203-1508**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is August 13, 2015.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 33-105, Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be held as follows:

**Tuesday, October 13th, 2015 - 9:00 a.m.**

**State Department of Education  
2nd Floor - Barbara Morgan Room  
650 W. State Street  
Boise, ID**

The hearing site 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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The total timeline from the determination that the student needs special education and related services to the date of implementation of the initial IEP shall not exceed thirty (30) calendar days.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)b, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The rule will bring IDAPA into compliance with IDEA (Individuals with Disabilities Act).

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

**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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because there have been two (2) thirty (30) day comment periods.

**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 temporary and proposed rule, contact Dr Charlie Silva, Director Special Education/Exceptional Children, [csilva@sde.idaho.gov](mailto:csilva@sde.idaho.gov), (208) 332-6806.

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 28, 2015.

DATED this 31st Day of August, 2015.

Sherri Ybarra  
Superintendent of Public Instruction  
650 W State Street  
2nd Floor  
Boise ID 83720-0027

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 08-0203-1508  
(Only Those Sections With Amendments Are Shown.)**

**109. SPECIAL EDUCATION.**

- 01. Definitions.** The following definitions apply only to Section 109 of these rules. (4-5-00)
- a.** Adult Student. A student who is eligible for special education, is eighteen (18) years of age or older and to whom special education rights have transferred. (4-5-00)
  - b.** Department. State Department of Education. (4-5-00)
  - c.** Due Process Hearing. An administrative hearing that is conducted to resolve disputes. (3-29-10)
    - i.** Regular due process hearing regarding issues on any matter related to identification, evaluation, placement, or the provision of a free appropriate public education. (3-29-10)
    - ii.** For disputes concerning discipline for which shortened time lines are in effect, an expedited due process hearing may be requested in accordance with the Individuals with Disabilities Education Act. (3-29-10)
  - d.** Education Agency. Each school district and other public agency that is responsible for providing special education and related services to students with disabilities, including the Department of Juvenile Corrections and the Idaho School for the Deaf and Blind. (4-5-00)
  - e.** Governing Special Education Requirements. Sections 33-201, 33-2001 through 2002, 33-2004 through 2005, and 33-2010, Idaho Code; Section 109 of these rules; the Individuals with Disabilities Education Act (IDEA), Parts A and B, (20 U.S.C., Sections 1400-1419); IDEA Regulations (34 C.F.R. Part 300); Idaho Special Education Manual; and special education case law that sets precedence in Idaho. (3-29-10)
  - f.** Idaho Special Education Manual. Policies and procedures, as approved by the State Board of Education, that the State Department of Education is required to adopt to meet the eligibility requirements of 20 U.S.C, Section 1412 and are consistent with state and federal laws, rules, regulations, and legal requirements. (3-29-10)
  - g.** Special Education. Specially designed instruction as defined by the Individuals with Disabilities Education Act or speech-language pathology services to meet the unique needs of a special education student. (4-5-00)
- 02. Legal Compliance.** The State Department of Education and education agencies shall comply with all governing special education requirements. (4-5-00)
- a.** The Board of Trustees or other comparable governing body of each education agency shall adopt policies and procedures for providing special education services and obtain approval from the State Department of Education for the same. Department approval shall be based on current governing special education requirements.

Each education agency shall revise its policies and procedures as necessary to conform with changes in governing special education requirements. (4-5-00)

**b.** The State Department of Education shall provide education agencies with a sample set of policies and procedures that is consistent with governing special education requirements. The Department shall monitor all education agencies and private agencies who provide special education services to students with disabilities for compliance with governing special education requirements and adopted policies and procedures. (4-5-00)

**c.** Each education agency shall ensure that charter schools and alternative schools located in its jurisdiction have nondiscriminatory enrollment practices. Each education agency shall ensure the provision of special education and related services to eligible students enrolled in charter and alternative schools in accordance with governing special education requirements. (4-5-00)

**d.** Each education agency contracting with a private school or facility shall ensure that the private school or facility is approved by the State Department of Education to provide special education services. The Department may approve a private school or facility to provide special education services upon application to the Department if it: (4-5-00)

- i. Is an accredited school or a licensed rehabilitation center; and (4-5-00)
- ii. Meets minimum health, fire and safety standards; and (4-5-00)
- iii. Is nonsectarian; and (4-5-00)
- iv. Provides special education services consistent with governing special education requirements. (4-5-00)

v. Any private school or facility aggrieved by the Department's final decision may appeal that decision to the State Board of Education. (4-5-00)

**e.** Education agencies shall employ special education and related services professional personnel using certification standards approved by the State Board of Education or licensing standards adopted by the Bureau of Occupational Licensing. Education agencies shall employ individuals who meet the highest entry-level standard that applies to a specific discipline unless there is a shortage of fully qualified candidates for a specific position. If there is a shortage of fully qualified candidates, the education agency shall hire the most qualified individual available who is making satisfactory progress toward meeting the highest entry-level standard within three (3) years. (4-5-00)

**f.** Education agencies may employ paraprofessional personnel to assist in the provision of special education and related services to students with disabilities if they meet standards established by the State Department of Education. (4-5-00)

**g.** Education agencies shall collect and report data as necessary to meet state and federal requirements concerning special education services, staff or students. Education agencies shall develop, implement and revise district improvement plans as necessary to improve results as measured by data on goals and indicators for the performance of special education students that are established by the State Department of Education in accordance with the Individuals with Disabilities Education Act. (4-5-00)

**h.** Education agencies shall establish a team process to problem solve and plan general education interventions to ensure that referrals to special education are appropriate. (4-5-00)

**03. Eligibility for Special Education.** The State Department of Education shall provide state eligibility criteria for special education services for categorical eligibility consistent with the Individuals with Disabilities Education Act. Education agencies shall consider eligibility under all disability categories set forth in the Idaho Special Education Manual with the exception of developmental delay, which is an optional category. If an education agency elects to use the developmental delay category, it shall consider developmental delay for students ages three (3) through nine (9) using the eligibility criteria adopted by the Department and set forth in the Idaho

Special Education Manual. The total timeline from the date of receipt of written parental consent for an initial evaluation to the date of determination of eligibility for special education and related services must not exceed sixty (60) calendar days, excluding periods when regular school is not in session for five (5) or more consecutive school days, unless all parties agree to an extension. (4-7-11)

**04. Individualized Education Programs.** Each education agency shall develop an individualized education program (IEP) for each student who is eligible for special education. The IEP shall be implemented as soon as possible after it is developed. The total timeline from the determination that the student needs special education and related services to the date of implementation of the initial IEP shall not exceed thirty (30) calendar days; ~~excluding periods when regular school is not in session for five (5) or more consecutive school days, unless all parties agree to an extension.~~ A new IEP shall be developed at least annually, on or before the date the previous IEP was developed. ~~(4-7-11)~~(8-13-15)T

**a.** IEP team meetings shall be convened upon reasonable request of any IEP team member at times other than the annual review. If the education agency refuses to convene an IEP team meeting requested by a parent or adult student, the agency shall provide written notice of the refusal. (4-5-00)

**b.** Education agencies shall document the attendance of all participants at each IEP team meeting. Any participant who does not agree with an IEP team decision regarding a student's educational program may place a minority report in that student's file. A minority report shall not prevent implementation of an IEP team decision. (4-5-00)

**c.** The IEP team shall determine the student's placement in the least restrictive environment. (5-3-03)

**d.** At the discretion of the education agency, an individualized family service plan (IFSP) may be used in place of an IEP if: (4-5-00)

**i.** The child is ages three (3) through five (5), and (4-5-00)

**ii.** The child's parents are provided with a detailed explanation of the differences between an IFSP and an IEP, and (4-5-00)

**iii.** The child's parents provide written consent to use the IFSP, and (4-5-00)

**iv.** The IFSP is developed in accordance with IDEA Part B policies and procedures. (3-29-10)

**v.** Nothing in this part requires education agencies to develop IFSPs rather than IEPs for three (3) through five (5) year old nor to implement more than the educational components of the IFSP. (4-5-00)

**e.** When a student who has been determined eligible for special education, as indicated by a current IEP, transfers from one (1) Idaho education agency to another, the student is entitled to continue to receive special education services. The receiving education agency may accept and implement the existing IEP or may convene an IEP team meeting to develop a new IEP. If a new IEP cannot be developed within five (5) school days, or if the education agency wishes to re-evaluate the child, an interim (short-term) IEP shall be implemented pending development of the standard IEP. (4-5-00)

**f.** If a student who is eligible for special education in another state transfers to an Idaho education agency, the Idaho education agency shall request a copy of the student's most recent eligibility documentation and IEP within two (2) school days. Within five (5) school days of receipt of the eligibility documentation and IEP, the Idaho education agency shall determine if it will adopt the existing eligibility documentation and IEP. If the education agency disagrees with the existing eligibility documentation, or if the documentation is not available within a reasonable time period, consent for an initial assessment shall be sought. While the assessment and evaluation is in process, the education agency may implement an interim IEP if the parent or adult student agrees. If the parent or adult student does not agree to an interim IEP, the student shall be placed in general education. (4-5-00)

**05. Procedural Safeguards.** Education agencies will use appropriate procedural safeguards consistent with the Individuals with Disabilities Education Act. (8-4-99)

**a.** If a parent or adult student disagrees with an individualized education program change or placement change proposed by the district, the parent or adult student may file a written objection to all or parts of the proposed change. If the written objection is postmarked or hand delivered within ten (10) calendar days of the date the parent or adult student receives written notice of the proposed change, the proposed change cannot be implemented. Informal methods such as additional IEP team meetings or voluntary mediation may be used to resolve the disagreement. If these methods fail, the education agency may request a due process hearing to obtain a hearing officer's decision regarding the proposed change. The written objection cannot be used to prevent the education agency from placing a student in an interim alternative educational setting in accordance with IDEA discipline procedures. (4-5-00)

**b.** Mediation may be requested by an education agency, parent, or adult student, or offered by the State Department of Education at any time. The Department shall screen all such requests to determine appropriateness. Any time a hearing is requested, the Department shall offer mediation using policies and requirements set forth in the Individuals with Disabilities Education Act regulations. If the Department appoints a mediator, the Department shall be responsible for compensating the mediator. All mediation participants shall be required to sign a confidentiality pledge. Attorney fees may not be awarded for a mediation that is conducted prior to a request for a due process hearing. (3-29-10)

**c.** The State Department of Education shall administer a single-tiered due process hearing system to resolve disputes between education agencies and parents or adult students. When a due process hearing is requested, the superintendent, special education director, or other agency administrator shall inform the agency's board of trustees or other governing body of the request. The education agency shall immediately notify the Department's Director of Special Education of any request for a due process hearing. Within ten (10) calendar days of a written request for a regular hearing, or within five (5) business days of a written request for an expedited hearing, an impartial hearing officer shall be assigned by the Department. The Department shall maintain a list of trained hearing officers and their qualifications. (3-29-10)

**d.** The education agency that is a party to the hearing shall be responsible for compensating the hearing officer and paying for the cost of a verbatim transcript of the hearing. (4-5-00)

**e.** Due process hearings shall be conducted pursuant to IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Individuals with Disabilities Education Act (IDEA) requirements, and the Idaho Special Education Manual. In case of any conflict between the IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General" and the IDEA, the IDEA shall supersede the IDAPA 04.11.01, and IDAPA 04.11.01 shall supersede the Idaho Special Education Manual. (3-29-10)

**f.** The hearing officer shall issue a written decision that includes findings of fact and conclusions of law within forty-five (45) calendar days of the date a regular hearing is requested, unless a specific extension of this time line is requested by one (1) of the parties and granted by the hearing officer. The hearing officer shall issue a written decision that includes findings of fact and conclusions of law within twenty (20) calendar days of a written request for an expedited hearing, unless a specific extension of this time line has been granted. An extension of the time line for an expedited hearing shall not exceed an additional twenty-five (25) calendar days, and may be granted only if requested by one (1) of the parties and agreed to by both parties. The decision shall be sent to the parent or adult student, the education agency administrator, their respective representatives, and the State Department of Education. (4-5-00)

**g.** The hearing officer's decision shall be binding unless either party appeals the decision by initiating a civil action. The hearing officer's decision shall be implemented not later than fourteen (14) calendar days from the date of issuance unless an appeal is filed by a parent or adult student or the decision specifies a different implementation date. An appeal to civil court must be filed within forty-two (42) calendar days from the date of issuance of the hearing officer's decision. (4-5-00)

**h.** During the hearing the education agency shall provide reasonable accommodations as required by federal and state regulations. Disputes concerning reasonable accommodations shall be referred to the Department of Education's Americans with Disabilities Act (ADA) Committee for resolution. (4-5-00)



**i.** During the pendency of any due process hearing or civil appeal the child's educational placement shall be determined by the Individuals with Disabilities Education Act "stay put" requirements. (4-5-00)

**j.** A parent or adult student has the right to an independent educational evaluation (IEE) at public expense if the parent or adult student disagrees with an evaluation obtained by the education agency. Whenever 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, shall be the same as the criteria the education agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent or adult student's right to an IEE. If an education agency has cost as one (1) of the criteria the education agency uses when it initiates an evaluation, the education agency may apply that criteria to independent educational evaluations. However, the parent or adult student has the right to demonstrate that unique circumstances justify an IEE that falls outside the education agency's cost criteria, and if so demonstrated, that IEE shall be publicly funded. A due process hearing may be initiated by the education agency to determine if the evaluation conducted by the education agency is appropriate. If the final decision of a hearing officer, or civil court, if the hearing officer's decision is appealed, is that the evaluation conducted by the education agency is appropriate, the parent or adult student still has the right to an independent educational evaluation, but not at the education agency's expense. (4-5-00)

**k.** Student records shall be managed in accordance with IDEA and Family and Educational Rights and Privacy Act regulations governing security, confidentiality, access, maintenance, destruction, inspection and amendment. (4-5-00)

**06. Assistive Technology Devices.** Education agencies may hold a parent liable for the replacement or repair of an assistive technology device that is purchased or otherwise procured by the education agency if it is lost, stolen, or damaged due to negligence or misuse at home or in another setting outside of school time. (4-5-00)

**07. Diplomas and Graduation.** School districts shall use a regular diploma for students who are eligible for special education at the completion of their secondary program. The transcript serves as a record of individual accomplishments, achievements, and courses completed. 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. If a student is not granted a regular high school diploma or if a regular high school diploma is granted for completing requirements that are not comparable to regular graduation requirements, a student who is eligible for special education is entitled to receive a free appropriate public education through the semester in which the student turns twenty-one (21) years of age or until the student completes requirements that are comparable to regular graduation requirements, whichever comes first. (4-5-00)

**08. Special Education Advisory Panel.** The State Superintendent of Public Instruction shall appoint members to serve on the Special Education Advisory Panel. Panel members shall elect annually an individual to serve a one (1) year term as vice-chair followed by a one (1) year term as chair. (4-5-00)

# IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

## 08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1509

### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), and 67-5226 Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section, 33-105 Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing concerning this rulemaking will be held as follows:

**Tuesday, October 13th, 2015 - 9:00 a.m.**

**State Department of Education  
2nd Floor, Barbara Morgan Room  
650 W. State Street  
Boise, ID**

The hearing site 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:

Groups of stakeholders from across the state included classroom teachers, university professors, arts and humanities community members, and administrators from Idaho school districts. The seven committees represented the following disciplines: dance, media arts, music, theatre, visual arts, interdisciplinary humanities, and world languages. The fine arts expanded to include media arts during this review.

A group of Idaho Science Educators were invited to meet at the Idaho State Department of Education in March and May of 2015 to review the current K-12 Idaho Science Standards and revise the standards in the interest of students and the public education system of Idaho.

The Science Committee's reviews and revisions allow Idaho Schools to select best-suited science standards as per local control. A cross-walk evaluation was conducted by the Idaho Science Standards Committee to determine the links between the current Idaho Standards and the National Science Foundation's Frameworks of Science. The committee determined the old standards lacked depth, rigor, inquiry, problem solving, and hands-on laboratory experiences, and thus made the revisions needed to respond to a changing set of requirements for science literacy.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

**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 as a result of this rulemaking: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because there were approximately 50 people who were involved in the review of the Humanities and fifteen who were involved in the science standards review.

**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:

There was a stakeholder group who thoroughly reviewed the current standards and made extensive changes.

These new standards are the result of that review and are replacing the current standards. These new materials are over 400 pages in length.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Scott Cook, Director of Academic Services, Support and Professional Development. [scook@sde.idaho.gov](mailto:scook@sde.idaho.gov). (208) 332-6927.

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 28, 2015.

DATED this 31st Day of August, 2015.

Sherri Ybarra  
Superintendent of Public Instruction  
650 West State Street  
2nd Floor  
Boise ID 83720-0027

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-1509**  
**(Only Those Sections With Amendments Are Shown.)**

**004. INCORPORATION BY REFERENCE.**

The following documents are incorporated into this rule: (3-30-07)

**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 [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (3-29-10)

- a. Driver Education, as revised and adopted on August 21, 2008. (3-29-10)
- b. Health, as revised and adopted on April 17, 2009. (3-29-10)
- c. Humanities Categories: (3-29-10)
  - i. Art, as revised and adopted on ~~April 17, 2009~~ August 13, 2015; ~~(3-29-10)~~( )
  - ii. Dance, as revised and adopted on April 17, 2009; (3-29-10)
  - iii. ~~Drama~~Theatre, as revised and adopted on ~~April 17, 2009~~ August 13, 2015; ~~(3-29-10)~~( )
  - iv. Interdisciplinary, as revised and adopted on ~~April 17, 2009~~ August 13, 2015; ~~(3-29-10)~~( )
  - v. Music, as revised and adopted on April 17, 2009; (3-29-10)
  - vi. World languages, as revised and adopted on April 17, 2009; (3-29-10)
  - vii. Media Arts, as revised and adopted on August 13, 2015. ( )
- d. English Language Arts, as revised and adopted on August 11, 2010. (4-7-11)
- e. Limited English Proficiency, as revised and adopted on August 21, 2008. (3-29-10)
- f. Mathematics, as revised and adopted on August 11, 2010. (4-7-11)

- g. Physical Education, as revised and adopted on April 17, 2009. (3-29-10)
- h. Science, as revised and adopted on ~~April 17, 2009~~ August 13, 2015. (~~3-29-10~~)(    )
- i. Social Studies, as revised and adopted on April 17, 2009. (3-29-10)
- j. Information and Communication Technology, as revised and adopted on April 22, 2010. (4-7-11)
- 02. The English Language Development (ELD) Standards.** The World-Class Instructional Design and Assessment (WIDA) 2012 English Language Development (ELD) Standards as adopted by the State Board of Education on August 16, 2012. Copies of the document can be found on the WIDA website at [www.wida.us/standards/eld.aspx](http://www.wida.us/standards/eld.aspx). (4-4-13)
- 03. The Limited English Proficiency Program Annual Measurable Achievement Objectives (AMAOs) and Accountability Procedures.** The Limited English Proficiency Program Annual Measurable Achievement Objectives and Accountability Procedures as adopted by the State Board of Education on November 11, 2009. Copies of the document can be found on the State Department of Education website at [www.sde.idaho.gov](http://www.sde.idaho.gov). (4-7-11)
- 04. The Idaho English Language Assessment (IELA) Achievement Standards.** The Idaho English Language Assessment (IELA) Achievement Standards as adopted by the State Board of Education on November 11, 2009. Copies of the document can be found on the State Department of Education website at [www.sde.idaho.gov](http://www.sde.idaho.gov). (4-7-11)
- 05. The Idaho Standards Achievement Tests (ISAT) Achievement Standards.** Achievement Standards as adopted by the State Board of Education on May 30, 2007. Copies of the document can be found on the State Board of Education website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (4-2-08)
- 06. The Idaho Extended Content Standards.** The Idaho Extended Content Standards as adopted by the State Board of Education on April 17, 2008. Copies of the document can be found at the State Board of Education website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (5-8-09)
- 07. The Idaho Alternate Assessment Achievement Standards.** Alternate Assessment Achievement Standards as adopted by the State Board of Education on May 18, 2011. Copies of the document can be found on the State Board of Education website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (3-29-12)
- 08. 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 [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (4-2-08)
- 09. 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 [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (4-2-08)

**(BREAK IN CONTINUITY OF SECTIONS)**

**008. DEFINITIONS H - S.**

- 01. ~~Interdisciplinary or~~ Integrated Assessment.** Assessment based on tasks that measures a student's ability to apply concepts, principles, and processes from two (2) or more subject disciplines to a project, issue, or problem. (~~4-5-00~~)(    )
- 02. International Baccalaureate (IB) -** Administered by the International Baccalaureate Organization, the IB program provides a comprehensive liberal arts course of study for students in their junior and senior years of

high school. IB students take end-of-course exams that may qualify for college credit. Successful completion of the full course of study leads to an IB diploma. (4-11-06)

**03. Interdisciplinary Study.** An approach to learning in two (2) or more disciplines that enables students to identify and apply authentic connections and integrate essential concepts that transcend individual disciplines. ( )

**034. Laboratory.** A laboratory science course is defined as one in which at least one (1) class period each week is devoted to providing students with the opportunity to manipulate equipment, materials, specimens or develop skills in observation and analysis and discover, demonstrate, illustrate or test scientific principles or concepts. (4-11-06)

**045. Learning Plan.** The plan that outlines a student's program of study, which should include a rigorous academic core and a related sequence of electives in academic, professional-technical education (PTE), or humanities aligned with the student's post graduation goals. (4-11-06)

**056. Narrative.** Text in any form (print, oral, or visual) that recounts events or tells a story. (4-5-00)

**067. Norm-Referenced Assessment.** Comparing a student's performance or test result to performance of other similar groups of students; (e.g., he typed better than eighty percent (80%) of his classmates.) (4-5-00)

**078. On-Demand Assessment.** Assessment that takes place at a predetermined time and place. Quizzes, state tests, SATs, and most final exams are examples of on-demand assessment. (4-5-00)

**089. Performance Assessment.** Direct observation of student performance or student work and professional judgment of the quality of that performance. Good quality performance assessment has pre-established performance criteria. (4-5-00)

**109. Performance-Based Assessment.** The measurement of educational achievement by tasks that are similar or identical to those that are required in the instructional environment, as in performance assessment tasks, exhibitions, or projects, or in work that is assembled over time into portfolio collections. (4-5-00)

**101. Performance Criteria.** A description of the characteristics that will be judged for a task. Performance criteria may be holistic, analytic trait, general or specific. Performance criteria are expressed as a rubric or scoring guide. Anchor points or benchmark performances may be used to identify each level of competency in the rubric or scoring guide. (4-5-00)

**142. Phonics.** Generally used to refer to the system of sound-letter relationships used in reading and writing. Phonics begins with the understanding that each letter (or grapheme) of the English alphabet stands for one (1) or more sounds (or phonemes). (4-5-00)

**123. Portfolio.** A collection of materials that documents and demonstrates a student's academic and work-based learning. Although there is no standard format for a portfolio, it typically includes many forms of information that exhibit the student's knowledge, skills, and interests. By building a portfolio, students can recognize their own growth and learn to take increased responsibility for their education. Teachers, mentors, and employers can use portfolios for assessment purposes and to record educational outcomes. (4-5-00)

**134. Professional Development.** A comprehensive, sustained, timely, and intensive process to improve effectiveness of teachers and administrators in raising student achievement, which: (4-4-13)

a. Aligns with rigorous state academic achievement standards, local educational agency goals, school improvement goals, effective technology integration, and Common Core standards. (4-4-13)

b. Utilizes data driven instruction using a thorough review and continual evaluation of data on teacher and student performance to define clear goals and distinct outcomes. (4-4-13)

c. Provides opportunities that are individualized enough to meet distinct and diverse levels of need for

teachers and administrators. (4-4-13)

**d.** Is facilitated by well-prepared school administrators, coaches, mentors, master teachers, lead teachers, or third-party providers under contract with the State Department of Education, school district, or charter school, and supported by external research, expertise, or resources. (4-4-13)

**e.** Fosters a collective responsibility by educators within the school for improved student performance and develops a professional learning community. (4-4-13)

**15.** **Project Based Learning.** A hands-on approach to learning that encourages students to create/interpret/communicate an original work or project and assesses quality and success of learning through performance/presentation/production of that work or project. ( )

**146.** **Print Awareness.** In emergent literacy, a learner's growing awareness of print as a system of meaning, distinct from speech and visual modes of representation. (4-5-00)

**157.** **Professional-Technical Education.** Formal preparation for semi-skilled, skilled, technical, or paraprofessional occupations, usually below the baccalaureate level. (4-11-06)

**168.** **Proficiency.** Having or demonstrating a high degree of knowledge or skill in a particular area. (4-5-00)

**179.** **School-to-Work Transition.** A restructuring effort that provides multiple learning options and seamless integrated pathways to increase all students' opportunities to pursue their career and educational interests. (4-5-00)

**1820.** **Service Learning.** Combining service with learning activities to allow students to participate in experiences in the community that meet actual human needs. Service learning activities are integrated into the academic curriculum and provide structured time for a student to think, talk, or write about what was done or seen during the actual service activity. Service learning provides students with opportunities to use newly acquired skills and knowledge in real-life situations in their communities, and helps foster the development of a sense of caring for others. (4-5-00)

**219.** **Skill Certificate.** Portable, industry-recognized credential that certifies the holder has demonstrated competency on a core set of performance standards related to an occupational cluster area. Serving as a signal of skill mastery at benchmark levels, skill certificates may assist students in finding work within their community, state, or elsewhere. A National Skills Standards Board is presently charged with issuing skill voluntary standards in selected occupations based on the result of research and development work completed by twenty-two (2) contractors. (4-5-00)

**202.** **Standards.** Statements about what is valued in a given field, such as English language arts, and/or descriptions of what is considered quality work. See content standards, assessment standards, and achievement standards. (4-2-08)

**213.** **Standardization.** A set of consistent procedures for constructing, administering and scoring an assessment. The goal of standardization is to ensure that all students are assessed under uniform conditions so the interpretation of performance is comparable and not influenced by differing conditions. Standardization is an important consideration if comparisons are to be made between scores of different individuals or groups. (4-5-00)

**224.** **Standards-Based Education.** Schooling based on defined knowledge and skills that students must attain in different subjects, coupled with an assessment system that measures their progress. (4-5-00)

**235.** **Structured Work Experience.** A competency-based educational experience that occurs at the worksite but is tied to the classroom by curriculum through the integration of school-based instruction with worksite experiences. Structured work experience involves written training agreements between school and the worksite, and individual learning plans that link the student's worksite learning with classroom course work. Student progress is supervised and evaluated collaboratively by school and worksite personnel. Structured work experience may be paid

or unpaid; may occur in a public, private, or non-profit organization; and may or may not result in academic credit and/or outcome verification. It involves no obligation on the part of the worksite employer to offer regular employment to the student subsequent to the experience. (4-5-00)

**246. Student Learning Goals (Outcomes).** Statements describing the general areas in which students will learn and achieve. Student learning goals typically reflect what students are expected to know by the time they leave high school, such as to read and communicate effectively; think critically and solve problems; develop positive self-concept, respect for others and healthy patterns of behavior; work effectively in groups as well as individually; show appreciation for the arts and creativity; demonstrate civic, global and environmental responsibility; recognize and celebrate multicultural diversity; exhibit technological literacy; have a well developed knowledge base which enhances understanding and decision making, and demonstrate positive problem solving and thinking skills. (4-5-00)

**257. Synchronous Course.** A course in which the teacher and students interact at the same time. May be applied to both traditional and technology based courses. (3-29-12)

**(BREAK IN CONTINUITY OF SECTIONS)**

**105. HIGH SCHOOL GRADUATION REQUIREMENTS.**

A student must meet all of the requirements identified in this section before the student will be eligible to graduate from an Idaho high school. The local school district or LEA may establish graduation requirements beyond the state minimum. (5-8-09)

**01. Credit Requirements.** The State minimum graduation requirement for all Idaho public high schools is forty-six (46) credits and must include twenty-nine (29) credits in core subjects as identified in Paragraphs 105.01.c. through 105.01.i. (3-12-14)

**a. Credits.** (Effective for all students who enter the ninth grade in the fall of 2010 or later.) One (1) credit shall equal sixty (60) hours of total instruction. School districts or LEA's may request a waiver from this provision by submitting a letter to the State Department of Education for approval, signed by the superintendent and chair of the board of trustees of the district or LEA. The waiver request shall provide information and documentation that substantiates the school district or LEA's reason for not requiring sixty (60) hours of total instruction per credit. (3-29-10)

**b. Mastery.** A student may also achieve credits by demonstrating mastery of a subject's content standards as defined and approved by the local school district or LEA. (3-29-10)

**c. Secondary Language Arts and Communication.** Nine (9) credits are required. Eight (8) credits of instruction in Language Arts. Each year of Language Arts shall consist of language study, composition, and literature and be aligned to the Idaho Content Standards for the appropriate grade level. One (1) credit of instruction in communications consisting of oral communication and technological applications that includes a course in speech, a course in debate, or a sequence of instructional activities that meet the Idaho Speech Content Standards requirements. (3-29-10)

**d. Mathematics.** Six (6) credits are required. Secondary mathematics includes Applied Mathematics, Business Mathematics, Algebra, Geometry, Trigonometry, Fundamentals of Calculus, Probability and Statistics, Discrete Mathematics, and courses in mathematical problem solving and reasoning. AP Computer Science, Dual Credit Computer Science, and Dual Credit Engineering courses may also be counted as a mathematics credit if the student has completed Algebra II standards. Students who choose to take AP Computer Science, Dual Credit Computer Science, and Dual Credit Engineering may not concurrently count such courses as both a math and science credit. (3-12-14)

**i. Students must complete secondary mathematics in the following areas:** (3-12-14)

(1) Two (2) credits of Algebra I or courses that meet the Idaho Algebra I Content Standards as approved by the State Department of Education; (3-29-10)



(2) Two (2) credits of Geometry or courses that meet the Idaho Geometry Content Standards as approved by the State Department of Education; and (3-29-10)

(3) Two (2) credits of mathematics of the student's choice. (3-29-10)

ii. Two (2) credits of the required six (6) credits of mathematics must be taken in the last year of high school in which the student intends to graduate. For the purposes of this subsection, the last year of high school shall include the summer preceding the fall start of classes. Students who return to school during the summer or the following fall of the next year for less than a full schedule of courses due to failing to pass a course other than math are not required to retake a math course as long as they have earned six (6) credits of high school level mathematics. (3-12-14)

iii. Students who have completed six (6) credits of math prior to the fall of their last year of high school, including at least two (2) semesters of an Advanced Placement or dual credit calculus or higher level course, are exempt from taking math during their last year of high school. High School math credits completed in middle school shall count for the purposes of this section. (3-12-14)

e. Science. Six (6) credits are required, four (4) of which will be laboratory based. Secondary sciences include instruction in applied sciences, earth and space sciences, physical sciences, and life sciences. Up to two (2) credits in AP Computer Science, Dual Credit Computer Science, and Dual Credit Engineering may be used as science credits. Students who choose to take AP Computer Science, Dual Credit Computer Science, and Dual Credit Engineering may not concurrently count such courses as both a math and science credit. (3-12-14)

i. Secondary sciences include instruction in the following areas: biology, physical science or chemistry, and earth, space, environment, or approved applied science. Four (4) credits of these courses must be laboratory based. (3-29-10)

f. Social Studies. Five (5) credits are required, including government (two (2) credits), United States history (two (2) credits), and economics (one (1) credit). Courses such as geography, sociology, psychology, and world history may be offered as electives, but are not to be counted as a social studies requirement. (3-29-10)

g. Arts and Humanities. Two (2) credits are required. Arts and Humanities courses include instruction in visual arts, music, theatre, dance, media arts, or world language aligned to the Idaho content standards for those subjects. Other courses such as literature, history, philosophy, architecture, or comparative world religions A course in Interdisciplinary Humanities may satisfy the humanities standards if the course is aligned to the Idaho Interdisciplinary Humanities Content Standards. (3-29-10)(      )

h. Health/Wellness. One (1) credit is required. Course must be aligned to the Idaho Health Content Standards. Effective for all public school students who enter grade nine (9) in Fall 2015 or later, each student shall receive a minimum of one (1) class period on psychomotor cardiopulmonary resuscitation (CPR) training as outlined in the American Heart Association (AHA) Guidelines for CPR to include the proper utilization of an automatic external defibrillator (AED) as part of the Health/Wellness course. (3-12-14)

i. Students participating in one (1) season in any sport recognized by the Idaho High School Activities Association or club sport recognized by the local school district, or eighteen (18) weeks of a sport recognized by the local school district may choose to substitute participation up to one (1) credit of physical education. Students must show mastery of the content standards for Physical Education in a format provided by the school district. (4-1-15)

**02. Content Standards.** Each student shall meet locally established subject area standards (using state content standards as minimum requirements) demonstrated through various measures of accountability including examinations or other measures. (3-29-10)

**03. College Entrance Examination.** (Effective for all public school students who enter grade nine (9) in Fall 2012 or later.) (3-12-14)



**a.** A student must take one (1) of the following college entrance or placement examinations before the end of the student's eleventh grade year: SAT, ACT, or Compass. A student who misses the statewide administration of the college exam during the student's grade eleven (11) for one (1) of the following reasons, may take the examination during their grade twelve (12) to meet this requirement: (3-12-14)

- i. Transferred to an Idaho school district during grade eleven (11); (3-12-14)
- ii. Was homeschooled during grade eleven (11); or (3-12-14)
- iii. Missed the spring statewide administration of the college entrance exam dates for documented medical reasons. (3-12-14)

**b.** A student may elect an exemption in grade eleven (11) from the college entrance exam requirement if the student is: (3-12-14)

- i. Enrolled in a special education program and has an Individual Education Plan (IEP) that specifies accommodations not allowed for a reportable score on the approved tests; (3-12-14)
- ii. Enrolled in a Limited English Proficient (LEP) program for three (3) academic years or less; or (3-12-14)
- iii. Enrolled for the first time in grade twelve (12) at an Idaho high school after the fall statewide administration of the college entrance exam. (4-1-15)

**04. Senior Project.** A student must complete a senior project by the end of grade twelve (12). The project must include a written report and an oral presentation. Additional requirements for a senior project are at the discretion of the local school district or LEA. (3-12-14)

**05. Middle School.** A student will have met the high school content and credit area requirement for any high school course if: (4-1-15)

- a.** The student completes such course with a grade of C or higher before entering grade nine (9); (3-12-14)
- b.** The course meets the same content standards that are required in high school; and (3-12-14)
- c.** The course is taught by a properly certificated teacher who meets the federal definition of highly qualified for the course being taught. (3-12-14)
- d.** The student shall be given a grade for the successful completion of that course and such grade and the number of credit hours assigned to the course shall be transferred to the student's high school transcript. Courses taken in middle school appearing in the student's high school transcript, pursuant to this subsection, shall count for the purpose of high school graduation. However, the student must complete the required number of credits in all high school core subjects as identified in Subsections 105.01.c. through 105.01.h. except as provided in 105.01.d.iii. (3-12-14)

**06. Proficiency.** Each student must achieve a proficient or advanced score on the grade ten (10) Idaho Standards Achievement Test (ISAT) in math, reading and language usage in order to graduate. Students who receive a proficient or advanced score on the grade ten (10) ISAT while in grade nine (9) may bank the score for purposes of meeting their graduation requirement. A student who does not attain at least a proficient score prior to graduation may appeal to the school district or LEA, and will be given an opportunity to demonstrate proficiency of the content standards through some other locally established plan. School districts or LEAs shall adopt an alternate plan and provide notice of that plan to all students who have not achieved a proficient or advanced score on the Grade 10 Idaho Standards Achievement Test by the fall semester of the student's junior year. All locally established alternate plans used to demonstrate proficiency shall be forwarded to the State Board of Education for review and information. Alternate plans must be promptly re-submitted to the Board whenever changes are made in such plans. (3-12-14)

- a. Before entering an alternate measure, the student must be: (4-2-08)
    - i. Enrolled in a special education program and have an Individual Education Plan (IEP); or (3-20-04)
    - ii. Enrolled in an Limited English Proficient (LEP) program for three (3) academic years or less; or (3-20-04)
    - iii. Enrolled in the fall semester of the senior year. (3-20-04)
  - b. The alternate plan must: (4-7-11)
    - i. Contain multiple measures of student achievement; (4-7-11)
    - ii. Be aligned at a minimum to tenth grade state content standards; (4-7-11)
    - iii. Be aligned to the state content standards for the subject matter in question; (4-7-11)
    - iv. Be valid and reliable; and (4-7-11)
    - v. Ninety percent (90%) of the alternate plan criteria must be based on academic proficiency and performance. (4-7-11)
  - c. A student is not required to achieve a proficient or advanced score on the ISAT if: (5-8-09)
    - i. The student received a proficient or advanced score on an exit exam from another state that requires a standards-based exam for graduation. The state's exit exam must be approved by the State Board of Education and must measure skills at the tenth grade level and be in comparable subject areas to the ISAT; (5-8-09)
    - ii. The student completes another measure established by a school district or LEA and received by the Board as outlined in Subsection 105.06; or (3-29-10)
    - iii. The student has an IEP that outlines alternate requirements for graduation or adaptations are recommended on the test; (5-8-09)
    - iv. The student is considered an LEP student through a score determined on a language proficiency test and has been in an LEP program for three (3) academic years or less; (5-8-09)
  - d. Those students who will graduate in 2016 and have not received a proficient or advanced score on the ISAT in grade nine (9), will be required to complete an alternative plan for graduation, as designed by the district, including the elements prescribed in Subsection 105.06.b. and may enter the alternate path prior to the fall of their senior year. (3-12-14)
- 07. Special Education Students.** A student who is eligible for special education services under the Individuals With Disabilities Education Improvement Act must, with the assistance of the student's Individualized Education Program (IEP) team, refer to the current Idaho Special Education Manual for guidance in addressing graduation requirements. (4-11-06)
- 08. Foreign Exchange Students.** A foreign exchange student may be eligible for graduation by completing a comparable program as approved by the school district or LEA. (4-11-06)

**IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

**08.02.03 - RULES GOVERNING THOROUGHNESS**

**DOCKET NO. 08-0203-1510**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), and 67-5226 Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-105, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing concerning this rulemaking will be held as follows:

**Tuesday, October 13th, 2015 - 9:00 a.m.**

**State Department of Education  
2nd Floor - Barbara Morgan Room  
650 W. State Street  
Boise, ID**

The hearing site 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 Idaho State Department of Education conducts scheduled reviews of curriculum for adoption based on approved state standards in the curricular area being reviewed. Physical Education has been a part of that review over the past decade. Physical Education is a required curricular subject K-8, and 80% of Idaho's districts require Physical Education for graduation.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

**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 as a result of this rulemaking: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is simple in nature. It added physical education back into the rule for curricular review.

**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 Rhonda Heggen, Coordinator Physical Education [rheggen@sde.idaho.gov](mailto:rheggen@sde.idaho.gov) (208) 332-6950.

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 28, 2015.

DATED this 31st Day of August, 2015.

Sherri Ybarra  
Superintendent of Public Instruction  
650 W State Street, 2nd Floor  
PO Box 83720  
Boise ID 83720-0027

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-1510  
(Only Those Sections With Amendments Are Shown.)

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

The State Board of Education will appoint a committee to select curriculum materials. Committee appointments will be for a period of five (5) years. Committee appointments shall consist of not less than ten (10) total members from the following stakeholder groups: certified Idaho classroom teachers, Idaho public school administrators, Idaho higher education officials, parents, trustees, local board of education members, members of the Division of Professional Technical Education, and State Department of Education personnel. The Executive Secretary will be an employee of the State Department of Education and will be a voting member of the committee. The State Department of Education shall charge publishers submission fees of sixty dollars (\$60) or equal to the retail price of each, whichever is greater, to defray the costs incurred in the curricular material review and adoption process. (3-27-13)

**01. Subject Areas.** Curricular materials are adopted by the State Board of Education for a period of six (6) years in the following subject areas: reading, English, spelling, speech, journalism, languages other than English, art, drama, social studies, music, mathematics, business education, career education and counseling, vocational/technical education, science, health, physical education, handwriting, literature, driver education, limited English proficiency. (~~3-20-14~~)(    )

**02. Multiple Adoptions.** Multiple adoptions are Made in Each Subject Area. (4-5-00)

**03. Bids.** Each publisher must deliver, according to the committee schedule, a sealed bid on all curricular materials presented for adoption. (4-5-00)

**04. Depository.** The State Board will appoint a depository for the state-adopted curricular materials. Resource materials are a local option. (4-5-00)

**05. Local Policies.** School districts will follow their own policies for adoption in subject areas offered by a school district for which materials are not covered by the state curriculum materials committee. (4-5-00)

**06. Online Course Review and Approval Process.** The State Department of Education shall administer the review and approval of online course providers and courses. Reviewers shall be certified Idaho classroom teachers. Online course providers are approved for a period of four (4) years. The State Department of Education shall charge online course providers submission fees based on the number of courses offered, not to exceed the actual costs incurred in the online course and course provider review and approval process. (3-20-14)

# **IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

## **08.02.03 - RULES GOVERNING THOROUGHNESS**

**DOCKET NO. 08-0203-1511**

### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), and 67-5226 Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-105, Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be held as follows:

**Tuesday, October 13th, 2015 - 9:00 a.m.**

**State Department of Education  
2nd Floor, Barbara Morgan Room  
650 W. State Street  
Boise, ID**

The hearing site 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:

Idaho English Language Assessment Achievement Standards were replaced by IDAPA 08.02.03.004.02 on April 4, 2013. This rule should have been removed at that time.

Achievement Standards listed in this rule for the Idaho English Language Assessment (IELA) are not accurate and must be updated to establish consistency with IDAPA 08.02.03.005.04.

Testing Population must be updated to accurately reflect the assessment administered to LEP students and to eliminate the use of an acronym.

IELA Language Proficiency Levels must be updated to coordinate with revised language in IDAPA 08.02.03.008.01. In addition, the IELA Language Proficiency Levels are not incorporated by reference in subsection 08.02.03.004.04.

Annual Measurable Achievement Objectives (AMAOs) must be updated to accurately reflect the type of assessment used to measure progress and proficiency of Limited English Proficient students.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

**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 as a result of this rulemaking: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule changes are simple in nature.

**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 Dr. Christina Nava, Director, Title III, Limited English Proficiency, [cnava@sde.idaho.gov](mailto:cnava@sde.idaho.gov) (208) 332-6876.

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 28, 2015.

DATED this 1st Day of September, 2015.

Sherri Ybarra  
Superintendent of Public Instruction  
650 W State Street, 2nd Floor  
PO Box 83720  
Boise ID 83720-0027  
(208) 332-6800

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-1511**  
**(Only Those Sections With Amendments Are Shown.)**

**004. INCORPORATION BY REFERENCE.**

The following documents are incorporated into this rule: (3-30-07)

**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 [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (3-29-10)

- a.** Driver Education, as revised and adopted on August 21, 2008. (3-29-10)
- b.** Health, as revised and adopted on April 17, 2009. (3-29-10)
- c.** Humanities Categories: (3-29-10)
  - i.** Art, as revised and adopted on April 17, 2009; (3-29-10)
  - ii.** Dance, as revised and adopted on April 17, 2009; (3-29-10)
  - iii.** Drama, as revised and adopted on April 17, 2009; (3-29-10)
  - iv.** Interdisciplinary, as revised and adopted on April 17, 2009; (3-29-10)
  - v.** Music, as revised and adopted on April 17, 2009; (3-29-10)
  - vi.** World languages, as revised and adopted on April 17, 2009. (3-29-10)
- d.** English Language Arts, as revised and adopted on August 11, 2010. (4-7-11)
- e.** Limited English Proficiency, as revised and adopted on August 21, 2008. (3-29-10)
- f.** Mathematics, as revised and adopted on August 11, 2010. (4-7-11)
- g.** Physical Education, as revised and adopted on April 17, 2009. (3-29-10)
- h.** Science, as revised and adopted on April 17, 2009. (3-29-10)

- i. Social Studies, as revised and adopted on April 17, 2009. (3-29-10)
- j. Information and Communication Technology, as revised and adopted on April 22, 2010. (4-7-11)
- 02. The English Language Development (ELD) Standards.** The World-Class Instructional Design and Assessment (WIDA) 2012 English Language Development (ELD) Standards as adopted by the State Board of Education on August 16, 2012. Copies of the document can be found on the WIDA website at [www.wida.us/standards/eld.aspx](http://www.wida.us/standards/eld.aspx). (4-4-13)
- 03. The Limited English Proficiency Program Annual Measurable Achievement Objectives (AMAOs) and Accountability Procedures.** The Limited English Proficiency Program Annual Measurable Achievement Objectives and Accountability Procedures as adopted by the State Board of Education on November 11, 2009. Copies of the document can be found on the State Department of Education website at [www.sde.idaho.gov](http://www.sde.idaho.gov). (4-7-11)
- ~~**04. The Idaho English Language Assessment (IELA) Achievement Standards.** The Idaho English Language Assessment (IELA) Achievement Standards as adopted by the State Board of Education on November 11, 2009. Copies of the document can be found on the State Department of Education website at [www.sde.idaho.gov](http://www.sde.idaho.gov). (4-7-11)~~
- ~~**054. The Idaho Standards Achievement Tests (ISAT) Achievement Standards.** Achievement Standards as adopted by the State Board of Education on May 30, 2007. Copies of the document can be found on the State Board of Education website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (4-2-08)~~
- ~~**065. The Idaho Extended Content Standards.** The Idaho Extended Content Standards as adopted by the State Board of Education on April 17, 2008. Copies of the document can be found at the State Board of Education website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (5-8-09)~~
- ~~**076. The Idaho Alternate Assessment Achievement Standards.** Alternate Assessment Achievement Standards as adopted by the State Board of Education on May 18, 2011. Copies of the document can be found on the State Board of Education website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (3-29-12)~~
- ~~**087. 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 [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (4-2-08)~~
- ~~**098. 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 [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). (4-2-08)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**007. DEFINITIONS A - G.**

- 01. Achievement Standards.** Define “below basic,” “basic,” “proficient,” and “advanced” achievement levels on the Idaho Standards Achievement Tests (ISAT) and ~~“beginning,” “advanced beginning,” “intermediate,” “early fluent” and “fluent”~~ “Level 1 through Level 5” on the Idaho English Language Assessment (IELA) by setting scale score cut points. These cut scores are paired with descriptions of how well students are mastering the material in the content standards. These descriptions are called performance level descriptors or PLDs, and are provided by performance level, by content area, and by grade. ~~(4-2-08)( )~~
- 02. Advanced Opportunities.** Are defined as Advanced Placement courses, Dual Credit courses, Tech Prep, or International Baccalaureate programs. (4-11-06)

- 03. Advanced Placement® (AP) - College Board.** The Advanced Placement Program is administered by the College Board at <http://www.collegeboard.com>. AP students may take one (1) or more college level courses in a variety of subjects. AP courses are not tied to a specific college curriculum, but rather follow national College Board curricula. While taking the AP exam is optional, students can earn college credit by scoring well on the national exams. It is up to the discretion of the receiving college to accept the scores from the AP exams to award college credit or advanced standing. (4-11-06)
- 04. All Students.** All students means all public school students, grades K-12. (4-11-06)
- 05. Alternative Assessment (Other Ways of Testing).** Any type of assessment in which students create a response to a question rather than choose a response from a given list, as with multiple-choice or true/false. Alternative assessments can include short-answer questions, essays, oral presentations, exhibitions, and portfolios. (4-5-00)
- 06. Assessment.** The process of quantifying, describing, or gathering information about skills, knowledge or performance. (4-5-00)
- 07. Assessment Standards.** Statements setting forth guidelines for evaluating student work, as in the “Standards for the Assessment of Reading and Writing.” (4-5-00)
- 08. Asynchronous Course.** An online course in which an online platform is used to deliver all curricula. The majority of communication exchanges occur in elapsed time and allow students and teachers to participate according to their schedule. Asynchronous courses do not prohibit the use of a paraprofessional, certificated staff or other staff member being present at the physical location during instructional periods where instruction takes place, such as a school computer lab. (4-4-13)
- 09. Authentic.** Something that is meaningful because it reflects or engages the real world. An “authentic task” asks students to do something they might really have to do in the course of their lives, or to apply certain knowledge or skills to situations they might really encounter. (4-5-00)
- 10. Basic Educational Skills Training.** Instruction in basic skills toward the completion/attainment of a certificate of mastery, high school diploma, or GED. (4-5-00)
- 11. Classic Texts.** Literary or other works (e.g., films, speeches) that have been canonized, either continuously or intermittently, over a period of time beyond that of their initial publication and reception. (4-5-00)
- 12. Content Standards.** Describe the knowledge, concepts, and skills that students are expected to acquire at each grade level in each content area. (4-2-08)
- 13. Context (of a Performance Assessment).** The surrounding circumstances within which the performance is embedded. For example, problem solving can be assessed in the context of a specific subject (such as mathematics) or in the context of a real-life laboratory problem requiring the use of mathematics, scientific, and communication skills. (4-5-00)
- 14. Cooperative Work Experience.** Classroom learning is integrated with a productive, structured work experience directly related to the goals and objectives of the educational program. Schools and participating businesses cooperatively develop training and evaluation plans to guide and measure the progress of the student. School credit is earned for successful completion, and the work may be paid or unpaid. Cooperative work experiences are also known as co-operative education or co-op. (4-5-00)
- 15. Criteria.** Guidelines, rules or principles by which student responses, products, or performances, are judged. What is valued and expected in the student performance, when written down and used in assessment, become rubrics or scoring guides. (4-5-00)
- 16. Cues.** Various sources of information used by readers to construct meaning. The language cueing systems include the graphophonic (also referred to as graphophonemic) system, which is the relationship between oral and written language (phonics); the syntactic system, which is the relationship among linguistic units such as



prefixes, suffixes, words, phrases, and clauses (grammar); and semantic system, which is the study of meaning in language. Reading strategies and language cueing systems are also influenced by pragmatics-the knowledge readers have about the ways in which language is understood by others in their culture. (4-5-00)

17. **“C” Average.** A combined average of courses taken on a four (4) point scale with “C” equal to two (2) points. (4-11-06)

18. **Decode.** (4-5-00)

a. To analyze spoken or graphic symbols of a familiar language to ascertain their intended meaning. (4-5-00)

b. To change communication signals into messages, as to decode body language. (4-5-00)

19. **Dual Credit.** Dual credit allows high school students to simultaneously earn credit toward a high school diploma and a postsecondary degree or certificate. Postsecondary institutions work closely with high schools to deliver college courses that are identical to those offered on the college campus. Credits earned in a dual credit class become part of the student’s permanent college record. Students may enroll in dual credit programs taught at the high school or on the college campus. (4-11-06)

20. **Emergent Literacy.** Development of the association of print with meaning that begins early in a child’s life and continues until the child reaches the stage of conventional reading and writing. (4-5-00)

21. **Employability Skills.** Work habits and social skills desirable to employers, such as responsibility, communication, cooperation, timeliness, organization, and flexibility. (4-5-00)

22. **Entry-Level Skills.** The minimum education and skill qualifications necessary for obtaining and keeping a specific job; the starting point in a particular occupation or with a certain employer. (4-5-00)

23. **Evaluation (Student).** Judgment regarding the quality, value, or worth of a response, product, or performance based on established criteria, derived from multiple sources of information. Student evaluation and student assessment are often used interchangeably. (4-5-00)

24. **Experiential Education (Application).** Experiential education is a process through which a learner constructs knowledge, skill, and value from direct experiences. (4-5-00)

25. **Exploratory Experience (Similar to a Job Shadow).** An opportunity for a student to observe and participate in a variety of worksite activities to assist in defining career goals. An in-school exploratory experience is a school-based activity that simulates the workplace. (4-5-00)

26. **Fluency.** The clear, rapid, and easy expression of ideas in writing or speaking; movements that flow smoothly, easily, and readily. (4-5-00)

27. **Genre (Types of Literature).** A category used to classify literary and other works, usually by form, technique, or content. Categories of fiction such as mystery, science fiction, romance, or adventure are considered genres. (4-5-00)

28. **Graphophonic/Graphophonemic.** One (1) of three (3) cueing systems readers use to construct texts; the relationships between oral and written language (phonics). (4-5-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**112. ACCOUNTABILITY.**

The provisions in this section apply for the purposes of meeting the “No Child Left Behind” Act and the state of Idaho accountability requirements. (3-20-04)

**01. ISAT Student Achievement Levels.** There are four (4) levels of student achievement for the ISAT: Below Basic, Basic, Proficient, and Advanced. Definitions for these levels of student achievement are adopted by reference in Subsection 004.05. (4-2-08)

**02. IELA Language Proficiency Levels.** There are five (5) levels of language proficiency for students testing on ~~the~~ Idaho's English Language Assessment: ~~beginning, advanced beginning, intermediate, early fluent, and fluent~~ Level 1, Level 2, Level 3, Level 4, and Level 5. Definitions for these levels of language proficiency are adopted by reference in Subsections 004.02 and 004.04. (4-2-08)(    )

**03. Adequate Yearly Progress (AYP).** (3-20-04)

**a.** Proficiency is defined as the number of students scoring proficient or advanced on the spring on-grade level ISAT. (3-20-04)

**b.** The State Department of Education will make AYP determinations for schools and districts each year. Results will be given to the districts at least one (1) month prior to the first day of school. (4-7-11)

**c.** The baseline for AYP will be set by the Board and shall identify the amount of growth (percentage of students reaching proficiency) required for each intermediate period. (3-20-04)

**04. Adequate Yearly Progress (AYP) Definitions.** For purposes of calculating and reporting adequate yearly progress, the following definitions shall be applied. (3-20-04)

**a.** Full Academic Year (continuous enrollment). (3-20-04)

**i.** A student who is enrolled continuously in the same public school from the end of the first eight (8) weeks or fifty-six (56) calendar days of the school year through the state approved spring testing administration period, not including the make-up portion of the test window, will be included in the calculation to determine if the school achieved AYP in proficiency. A student is continuously enrolled if he/she has not transferred or dropped-out of the public school. Students who are serving suspensions are still considered to be enrolled students. (4-7-11)

**ii.** A student who is enrolled continuously in the school district from the first eight (8) weeks or fifty-six (56) calendar days of the school year through the state approved spring testing administration period, not including the make-up portion of the test window, will be included when determining if the school district has achieved AYP. (4-2-08)

**iii.** A student who is enrolled continuously in a public school within Idaho from the end of the first eight (8) weeks or fifty-six (56) calendar days of the school year through the state approved spring testing administration period, not including the make-up portion of the test window, will be included when determining if the state has achieved AYP. (4-2-08)

**b.** Participation Rate. (3-20-04)

**i.** Failure to include ninety-five percent (95%) of all students and ninety-five percent (95%) of students in designated subgroups automatically identifies the school as not having achieved AYP. The ninety-five percent (95%) determination is made by dividing the number of students assessed on the Spring ISAT by the number of students reported on the class roster file for the Spring ISAT. (3-20-04)

(1) If a school district does not meet the ninety-five percent (95%) participation target for the current year, the participation rate can be calculated by the most current three (3) year average of participation. (4-6-05)

(2) Students who are absent for the entire state-approved testing window because of medical reasons or are homebound are exempt from taking the ISAT if such circumstances prohibit them from participating. Students who drop out, withdraw, or are expelled prior to the beginning of the final makeup portion of the test window are considered exited from the school. (4-7-11)

- ii. For groups of ten (10) or more students, absences for the state assessment may not exceed five percent (5%) of the current enrollment or two (2) students, whichever is greater. Groups of less than ten (10) students will not have a participation determination. (3-20-04)
- c. Schools. (3-20-04)
- i. An elementary school includes a grade configuration of grades Kindergarten (K) through six (6) inclusive, or any combination thereof. (3-20-04)
- ii. 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). (4-6-05)
- iii. A high school is any school that contains grade twelve (12). (3-20-04)
- iv. The accountability of public schools without grades assessed by this system (i.e., K-2 schools) will be based on the third grade test scores of the students who previously attended that feeder school. (3-20-04)
- v. A “new school” for purposes of accountability is a wholly new entity receiving AYP determinations for the first time, or a school with a significant student population change as a result of schools being combined or geographic boundaries changing, or a result of successful school restructuring sanctioned by the Office of the State Board of Education. (4-7-11)
- d. Subgroups. Scores on the ISAT must be disaggregated and reported by the following subgroups: (3-20-04)
- i. Race/Ethnicity - Black/African American, Asian, Native Hawaiian/Pacific Islander, White, Hispanic/Latino Ethnicity, American Indian/Alaska Native. (3-20-04)
- ii. Economically disadvantaged - identified through the free and reduced lunch program. (3-20-04)
- iii. Students with disabilities - individuals who are eligible to receive special education services through the Individuals with Disabilities Education Act (IDEA). (3-20-04)
- iv. Limited English Proficient - individuals who do not score proficient on the state-approved language proficiency test and meet one (1) of the following criteria: (4-11-15)
- (1) Individuals whose native language is a language other than English; or (4-6-05)
- (2) Individuals who come from environments where a language other than English is dominant; or (4-6-05)
- (3) Individuals who are American Indian and Alaskan natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency, and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms, where the language of instruction is English. (4-6-05)
- e. Graduation Rate. The State Board of Education will establish a target for graduation. All high schools must meet the target or make sufficient progress toward the target each year, as determined by the State Board of Education. The graduation rate will be disaggregated by the subpopulations listed in Subsection 112.04.d. in the event the “safe harbor” is invoked by the school/district. (4-7-11)
- f. Additional Academic Indicator. The State Board of Education will establish a target for an additional academic indicator. All elementary and middle schools must maintain or make progress toward the additional academic indicator target each year. The additional academic indicator target will be disaggregated by the subpopulations listed in Subsection 112.04.d. in the event the “safe harbor” is invoked by the school/district. By 2014, the schools/districts must meet the target. (3-20-04)

**05. Annual Measurable Achievement Objectives (AMAOs).** Local school districts are responsible for ensuring district progress of Limited English Proficient (LEP) students in their acquisition of English. Progress and proficiency are measured by ~~the~~ [Idaho's English Language Assessment \(IELA\)](#) and determined based on three (3) AMAOs: ~~(4-2-08)~~(    )

**a.** Annual increases in the percent or number of LEP students making progress in acquiring English language proficiency; (4-2-08)

**b.** Annual increases in the percent or number of LEP students attaining English language proficiency by the end of the school year; and (4-2-08)

**c.** Each school district must make Adequate Yearly Progress for LEP students on the spring ISAT. (4-2-08)