

Dear Senators MORTIMER, Thayn, Buckner-Webb, and
Representatives VANORDEN, McDonald, Kloc:

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

IDAPA 08.01.11 - Registration of Postsecondary Educational Institutions and Proprietary Schools -
Proposed Rule (Docket No. 08-0111-1701);

IDAPA 08.01.13 - Rules Governing the Opportunity Scholarship Program - Temporary and Proposed
(Docket No. 08-0113-1701).

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 11/03/2017. 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 12/05/2017.

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: Senior Legislative Research Analyst - Elizabeth Bowen

DATE: October 17, 2017

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

IDAPA 08.01.11 - Registration of Postsecondary Educational Institutions and Proprietary Schools - Proposed Rule (Docket No. 08-0111-1701)

IDAPA 08.01.13 - Rules Governing the Opportunity Scholarship Program - Temporary and Proposed (Docket No. 08-0113-1701)

The State Board of Education submits notice of proposed rulemaking at IDAPA 08.01.11 and 08.01.13.

08.01.11

This rule clarifies that the Board does not review course or program curriculum for proprietary schools. Rather, a person providing training in a profession regulated by a board or agency other than the State Board of Education must attest that the course or program curriculum adheres to the licensing or certification requirements of the regulating board or agency.

Negotiated rulemaking was conducted, and there is no anticipated negative fiscal impact on the state general fund. The Board states that this rulemaking is authorized pursuant to several sections of the Idaho Code, including Section 33-2403, which provides that the Board shall prescribe by rule the procedure for registering a proprietary school.

08.01.13

This rule, also a temporary rule, updates and clarifies eligibility requirements for the Opportunity Scholarship Program, including revising the required SAT score from 950 to 1,010 due to recent changes in SAT scoring. Negotiated rulemaking was conducted, and there is no anticipated negative impact on the state general fund. The Governor finds that the temporary rule is justified because, by allowing equitable distribution of scholarships to students, the rule confers a benefit. The Board states that this rulemaking is authorized pursuant to several sections of the Idaho Code, including Section 33-4303, which authorizes the Board to promulgate rules regarding the Opportunity Scholarship Program.

cc: State Board of and State Department of Education - State Board of Education
Tracie Bent

Mike Nugent, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

IDAPA 08 – STATE BOARD OF EDUCATION

08.01.11 – REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS AND PROPRIETARY SCHOOLS

DOCKET NO. 08-0111-1701

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 Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-2402 and 33-2403, 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 18, 2017.

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 proposed amendments provide clarification that the Board does not review courses or courses of study as part of the proprietary school registration process and that those individuals who are providing training for a profession that is regulated by another state agency or Board must attest that the courses meet the licensing or certification requirements of the regulating agency or Board.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No changes are being made to the existing fee schedule.

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: N/A

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 May 3, 2017 Idaho Administrative Bulletin, [Vol. 17-5, Page 40](#).

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: No documents are being incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208) 332-1582 or tracie.bent@osbe.idaho.gov.

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 25, 2017.

DATED this 29th day of August, 2017.

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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0111-1701
(Only Those Sections With Amendments Are Shown.)

201. THE BOARD MAY NOTIFY THE POSTSECONDARY EDUCATIONAL INSTITUTION OF ADDITIONAL INFORMATION REQUIRED.

If the Board is unable to determine the nature and activities of an institution on the basis of the information provided by the institution under this rule, then the Board may notify the institution of additional information that it will be required to provide in connection with the application for registration. (4-9-09)

01. Verification of Information. The Board may verify the accuracy of submitted information by inspection, visitation, or any other means it considers necessary. The applicant institution shall be responsible for any costs the Board incurs, including travel, associated with this review. (4-9-09)

02. Criteria for Approval of Registration. To be approved for registration, the institution must demonstrate that it is in compliance with Chapter 24, Title 33, Idaho Code and this rule. An institution must remain in compliance for the registration year. (4-9-09)

03. Public Information. All information submitted to the Board in connection with the application is subject to disclosure as set forth in the Public Records Act, Title 9, Chapter 3, Idaho Code. (3-29-12)

04. Certificate of Registration or Exemption. (3-29-12)

a. A certificate of registration will be issued to a postsecondary educational institution that has paid its registration fee and has been approved under this rule. A certificate evidencing initial registration will be effective the date it is issued, and continue through June 30 of the next succeeding year. A renewal certificate will be for the period July 1 through June 30 of the next succeeding year. No institution that is registered with the Board shall advertise or represent in any manner that it is accredited by the Board. An institution may only represent that it is "Registered with the Idaho State Board of Education." Registration is not an endorsement of the institution or any of its courses, courses of study, or degrees. (4-7-11)

b. An institution exempt from registration under these rules may request a certificate of exemption. (3-29-12)

c. If a postsecondary educational institution wishes to offer additional courses, courses of study, or degrees during a registration year that were not included in its annual registration application to the Board, then the institution must submit a letter to the Board Office along with documentation of its accrediting agency's approval of those specific curriculum changes. (4-7-11)

05. Disapproval and Appeal. If a postsecondary educational institution's request for initial registration, or renewal of registration, is disapproved by the Board, then the institution may appeal such decision ~~in accordance with Chapter 52, Title 67, Idaho Code~~ by submitting written request. The request must be in writing and made to the Board office within thirty (30) days of the date the institution is notified of the disapproval. ~~(3-29-12)~~()

06. Withdrawal of Approval. (4-9-09)

a. The Board may refuse to renew, or may revoke or suspend approval of, an institution's registration by giving written notice and the reasons therefore to the institution. The institution may request a hearing relating to such decision under IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (4-9-09)

b. Withdrawal of approval may be for one (1) or more of the following reasons: (4-9-09)

i. Violation of Chapter 24, Title 33, Idaho Code or this rule; (4-9-09)

- ii. Providing false, misleading, deceptive, or incomplete information to the Board; (4-9-09)
- iii. Presenting to prospective or current students information about the institution which is false, fraudulent, misleading, deceptive, or inaccurate in a material respect; (3-29-12)
- iv. Refusing to allow reasonable inspection or to supply reasonable information after a written request by the Board Office has been received; or (3-29-12)
- v. Loss of accreditation status. (3-29-12)
- c. If any information contained in the application submitted by the institution becomes incorrect or incomplete, then the registered institution shall notify the Board office of such change within thirty (30) days. An institution that ceases operation during the course of a registration year shall immediately inform the Board Office of this event. (3-29-12)

202. -- 299. (RESERVED)

300. REGISTRATION OF PROPRIETARY SCHOOLS.

01. Delegation. Section 33-2403, Idaho Code, provides that a proprietary school must hold a valid certificate of registration issued by the Board. The Board delegates authority to its Executive Director and the Office of the State Board of Education to administer the registration of proprietary schools, in accordance with Title 33, Chapter 24, Idaho Code, and this rule. (3-29-12)

02. Registration Requirement. (4-9-09)

a. Unless exempted by statute or this rule, as provided herein, a proprietary school which maintains a presence within the state of Idaho, or which operates or purports to operate from a location within the state of Idaho, shall register annually and hold a valid certificate of registration issued by the Board. A school shall not conduct, provide, offer, or sell a course or courses of study unless registered. A school shall not solicit students for or on behalf of such school, or advertise in this state, unless registered. (3-29-10)

b. Registration shall be for the period beginning July 1 of any year and continue through June 30 of the next succeeding year. For a school that has not previously registered with the Board, registration shall be for the period beginning on the date of issuance of a certificate of registration and continue through June 30 of the next succeeding year. A registered proprietary school must renew its certificate of registration annually and renewal of registration is not automatic. (3-29-12)

c. Renewal of registration shall be for the period beginning on July 1 of any year, and continue through June 30 of the next succeeding year. (4-9-09)

03. Idaho Presence. (3-29-12)

a. A school shall be deemed to have a presence in Idaho, or to be operating or purporting to be operating from a location within the state of Idaho, or if it owns, rents, leases, or uses any office or other type of physical location in Idaho, including a mailing or shipping center, or if it represents in any way, such as on an electronic or Internet website, to have an Idaho street or mailing address, including a post office box in Idaho, for purposes of conducting, providing, offering or selling a course or courses of study or degrees. (3-29-12)

b. Idaho presence shall not include: (3-29-12)

i. Distance or online education delivered by an institution located outside of the state of Idaho to students in this state when the institution does not otherwise have physical presence in Idaho, as provided in Subsection 300.03.a. of this rule; (3-29-12)

ii. Internship or cooperative training programs occurring in the state of Idaho where students are

employed by or provide services to a business or company in this state and receive course credit from an institution related to such activities; or (3-29-12)

iii. Activities limited to the recruiting or interviewing of applicants or potential students in the state of Idaho, whether conducted by a compensated employee, agent, or representative of an institution, or by volunteer alumnus of an institution, even if such individual is physically located in this state. (3-29-12)

04. Exemptions from Registration. The following individuals or entities are specifically exempt from the registration requirements of this rule: (4-9-09)

a. An individual or entity that offers instruction or training solely avocational or recreational in nature, as determined by the Board. (3-29-12)

b. An individual or entity that offers courses recognized by the Board which comply in whole or in part with the compulsory education law. (4-9-09)

c. An individual or entity that offers a course or courses of study sponsored by an employer for the training and preparation of its own employees, and for which no tuition fee is charged to the student. (4-9-09)

d. An individual or entity which is otherwise regulated, licensed, or registered with another state agency pursuant to Title 54, Idaho Code. (4-9-09)

e. An individual or entity that offers intensive review courses designed to prepare students for certified public accountancy tests, public accountancy tests, law school aptitude tests, bar examinations or medical college admissions tests, or similar instruction for test preparation. (4-9-09)

f. An individual or entity offering only workshops or seminars lasting no longer than three (3) calendar days and offered no more than four (4) times per year. (3-29-12)

g. A parochial or denominational institution providing instruction or training relating solely to religion and for which degrees are not granted. (4-9-09)

h. An individual or entity that offers postsecondary credit through a consortium of public and private colleges and universities under the auspices of the Western Governors University. (3-29-12)

i. An individual or entity that offers flight instruction and that accepts payment for services for such training on a per-flight basis after the training occurs, or that accepts advance payment or a deposit for such training in a de minimus amount equal to or less than fifteen (15) percent of the total course or program cost. (3-29-12)

05. Application. A proprietary school that is required to register under this rule must submit to the Board office an application for registration (either an application for initial registration, or renewal of registration, as applicable), on a form provided by the Board office. The application must include a list of each course or courses of study the applicant school intends to conduct, provide, offer or sell in Idaho during the registration year. (3-29-10)

06. Registration Fees. The Board shall assess an annual registration fee for initial registration or renewal of registration. The registration fee must accompany the application for registration, and shall be one-half of one percent (.5%) of the gross Idaho tuition revenue of the school during the previous tax reporting year (Jan 1 - Dec 31), but not less than one hundred dollars (\$100) and not to exceed five thousand dollars (\$5,000). The school shall provide documentation to substantiate the amount of revenue reported. Registration fees are nonrefundable. (4-4-13)

07. Deadline for Registration. An initial application for registration may be submitted to the Board at anytime. A school should expect the Board review process for an initial registration to take approximately three (3) to five (5) months. An application for renewal of registration must be submitted to the Board on or before the first business day of May that precedes the registration year. The renewal will be processed within thirty (30) days. Institutions that do not adhere to this schedule and whose renewals are not processed by July 1st must cease all active operations until approval of registration is received. (3-29-12)

08. Information Required. Such application must include all the information requested on the application form. In addition, a school must attest by signature of the primary official on the application form that it is in compliance with Standards I through V set forth in Section 301 of this rule and must provide verification of compliance with Standards I through V set forth in Section 301 of this rule upon request. The Board may, in connection with a renewal of registration, request that a school only submit information that documents changes from the previous year, provided that the school certifies that all information and/or documentation submitted in a previous registration year remains current. The annual registration fee, described in Subsection 300.06 of this rule, shall remain applicable. (3-29-12)

301. APPROVAL STANDARDS FOR REGISTRATION OF PROPRIETARY SCHOOLS.

The Board and its designee accepts the responsibility for setting and maintaining approval standards for proprietary schools that plan to offer courses or a set of related courses in or from Idaho in order to protect consumers and to ensure quality educational programs are provided throughout the state. A school must meet all of the standards prior to issuance of a certificate of registration and the school must provide required evidence to document compliance with the standards as identified in the application form. A certificate of registration may be denied if all of the standards are not met. (4-9-09)

01. Standard I - Legal Status and Administrative Structure. The school must be in compliance with all local, state and federal laws, administrative rules, and other regulations applicable to proprietary schools. (4-9-09)

a. The school must have a clearly stated educational purpose that is consistent with the courses or a set of related courses under consideration for approval. (4-7-11)

b. The ownership of the school, its agents, and all school officials must be identified by name and title. (4-9-09)

c. Each owner, agent, instructor and/or school official must be appropriately qualified by the trade board (as applicable) to ensure courses are of high quality and the rights of students are protected. (3-29-12)

d. Written policies must be established to govern admissions and re-admission of dismissed students, hiring procedures, and working conditions; evaluation/assessment of all employees and instructional offerings; student and instructor rights and responsibilities; grievance procedures; approval of the curriculum and other academic procedures to ensure the quality of educational offerings. (4-7-11)

e. Procedures for assessing/evaluating the effectiveness of instruction must be established. Evaluation and assessment results must be used to improve courses or courses of study. (4-9-09)

f. All advertising, pamphlets, and other literature used to solicit students and all contract forms must accurately represent the purpose of the school, its courses or courses of study, anticipated job opportunities, and other relevant information to assist students in making an informed decision to enroll. Schools offering courses or courses of study which require clinical, practicum or internship components must provide students in writing information regarding the number of clinical, practicum or internship positions available and the location of said positions. The school must provide to each prospective student, newly-enrolled student, and returning student complete and clearly presented information indicating the school's current completion and job placement rate. (4-4-13)

02. Standard II - Courses or Courses of Study. Instruction must be the primary focus of the school. All courses or courses of study must prepare students to enter employment upon completion of the program or prepare them for self-employment. (3-29-12)

a. The requirements for each course or courses of study must be defined clearly including applicable completion requirements or other requirements such as practicums and clinicals. Courses or courses of study ~~will~~ **must** follow applicable trade or occupational board training curriculum standards or be designed using effective learning strategies for students, identifying and organizing all instructional materials and specialized facilities, identifying instructional assessment methods, and evaluating the effectiveness of the course offerings. Applicants must include an attestation that courses or courses of study applicable to occupations, which are otherwise regulated, licensed, or registered with another state agency or state board, meet the regulating state agency or state board standards for licensure or certification at the time of application. The office of the state board of education does not

review course or program curriculum.

~~(3-29-12)~~()

b. Written course descriptions must be developed for all courses or courses of study. Written course descriptions must be provided to instructors. Instructors are expected to follow course descriptions. A syllabus must be developed for each course and distributed to students at the beginning of the course. (3-29-12)

c. The school must assure that a course or courses of study will be offered with sufficient frequency to enable students to complete courses or courses of study within the minimum time for completion. (4-9-09)

d. The school must clearly state the cost of each course or courses of study and identify the payment schedule. This information, and the refund policy, must be given to students in writing. (3-29-12)

03. Standard III - Student Support Services. The school must have clearly defined written policies that are readily available to students. Policies must address students rights and responsibilities, grievance procedures, and define what services are available to support students. (3-29-12)

a. The admission of students must be determined through an orderly process established in a written policy using published criteria which must be uniformly applied. Admissions decisions must take into account the capacity of the student to grasp and complete the instructional training program and the ability of the school to handle the unique needs of the students it accepts. (3-29-12)

b. There must be a clearly defined policy to re-evaluate students dismissed from the school and, if appropriate, to readmit them. (3-29-12)

c. The school must establish and adhere to a clear and fair policy regarding due process in disciplinary matters for all students, given to each student upon enrollment in the school. The school must provide the name and contact information for the individual who is responsible for dealing with student grievances and other complaints and for handling due process procedures. (3-29-12)

d. Prior to enrollment, all prospective students must receive the following information in writing: (3-29-12)

i. Information describing the purpose, length, and objectives of the courses or courses of study; (4-9-09)

ii. Completion requirements for the courses or courses of study; (4-9-09)

iii. The schedule of tuition, fees, and all other charges and all expenses necessary for completion of the courses or courses of study; (4-9-09)

iv. Cancellation and refund policies; (4-9-09)

v. An explanation of satisfactory progress, including an explanation of the grading/assessment system; (4-9-09)

vi. The calendar of study including registration dates, beginning and ending dates for all courses, and holidays; (4-9-09)

vii. A complete list of instructors and their qualifications; (4-9-09)

viii. A listing of available student services; and (4-9-09)

e. Accurate and secure records must be kept for all aspects of the student record including, at minimum, admissions information, and the courses each student completed. (4-9-09)

04. Standard IV - Faculty/Instructor Qualifications and Compensation. (3-29-12)

- a.** Instructor qualifications (training and experience) must be recorded and available to students. (3-29-12)
- b.** There must be a sufficient number of full-time instructors to maintain the continuity and stability of courses. (4-9-09)
- c.** The ratio of instructors to students in each course must be sufficient to assure effective instruction. (4-9-09)
- d.** Commissions may not be used for any portion of the faculty compensation. (4-9-09)
- e.** Procedures for evaluating instructors must be established. Provisions for student evaluation are recommended. (4-9-09)
- 05. Standard V - Resources, Finance, Facilities, and Instructional Resources.** (4-9-09)

 - a.** Adequate financial resources must be provided to accomplish instructional objectives and to effectively support the instructional program, including classroom and training facilities, instructional materials, supplies and equipment, instructors, staff, library, and the physical and instructional technology infrastructure. (3-29-12)
 - b.** The school must have sufficient instructional resource materials so that, together with tuition and fees, it is able to complete its educational obligations to currently enrolled students. If the school is unable to fulfill its obligations to students, the school must make arrangements for a comparable teach-out opportunity with another proprietary school or refund one hundred (100) percent of prepaid tuition. (3-29-12)
 - c.** School financial/business records and reports must be kept separate and distinct from those of any affiliated or sponsoring person or entity. Financial records and reports at a school shall be kept in accordance recognized financial accounting methods. (3-29-12)
 - d.** The school must have adequate instructional resource materials available to students, either on site or through electronic means. These materials must be housed in a designated area and be available for students and instructors with sufficient regularity and at appropriate hours to support achievement of course objectives or to promote effective teaching. (4-9-09)
 - e.** If the school relies on other schools or entities to provide library resources or instructional resources, the school must demonstrate how these arrangements effectively meet the needs of students and faculty. These arrangements must be documented through written agreements. Student and faculty use must be documented and frequently evaluated to ensure quality services are being provided. (4-9-09)

IDAPA 08 – STATE BOARD OF EDUCATION

08.01.13 – RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM

DOCKET NO. 08-0113-1701

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 31, 2017.

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 rulemaking procedures have been initiated. The action is authorized pursuant to Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, and 33-4303, 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 18, 2017.

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 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:

This rule updates the Scholastic Aptitude Test (SAT) score to realign the indicator with the ACT score used for the same purpose and make clarifications that will allow for an equitable distribution of scholarship awards to students. Proposed amendments will make technical corrections, provide clarification regarding the verification of a student's expected family contribution, in addition to updating the college entrance exam requirements scores used for determining academic eligibility for scholarship applicants that have a GED score and not high school grade point average. College entrance exam score amendments are due to the recent changes in the Scholastic Aptitude Test (SAT) scoring.

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

This rule meets the requirements of conferring a benefit by updating the SAT assessment score to realign the indicator with the score used for the ACT and make additional clarifications, the amendments will allow for an equitable distribution of scholarship awards to students.

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

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: N/A

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 May 3, 2017 Idaho Administrative Bulletin, [Vol. 17-5, Page 41](#).

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: This rule contains no documents incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, Tracie Bent at (208) 332-1582 or tracie.bent@osbe.idaho.gov.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2017.

DATED this 31st day of August, 2017.

Tracie Bent
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**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 08-0113-1701
(Only Those Sections With Amendments Are Shown.)**

000. LEGAL AUTHORITY.

In accordance with Sections 33-105, ~~and 33-5605 4303, and 33-5606(2)(c)~~, Idaho Code, the State Board of Education (Board) shall promulgate rules implementing the provisions of Title 33, Chapter 56, Idaho Code. ~~(4-2-08)~~(8-31-17)T

(BREAK IN CONTINUITY OF SECTIONS)

101. ELIGIBILITY.

Applicants must meet all of the eligibility requirements to be considered for the scholarship award. (8-31-17)T

01. Undergraduate Student. An eligible student must be pursuing their first undergraduate certificate or degree. A student may have received multiple certificates or degrees as part of the natural progression towards a recognized baccalaureate degree program. A student who is enrolled in a graduate program, but who has not yet earned a baccalaureate degree, is not eligible for an opportunity scholarship. A student enrolled in an undergraduate program is eligible for consideration for an opportunity scholarship, even if some of the student's courses are at the graduate level. (3-20-14)

02. Academic Eligibility. ~~(4-2-08)~~

~~a. Applicants for the opportunity scholarship are selected as recipients, in part, on the basis of their cumulative GPA. (3-20-14)~~

~~b. To be eligible for an opportunity scholarship, an applicant must meet minimum academic eligibility criteria, as follows: (3-20-14)(8-31-17)T~~

~~a. A student who has not yet graduated from secondary school or its equivalent in the state of Idaho must have an un-weighted minimum cumulative grade point of average of three point zero (3.0) or better on a scale of four point zero (4.0) to be eligible to apply for an opportunity scholarship. Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) place. Home schooled students must provide a transcript of subjects taught and grades received signed by the parent or guardian of the student; or ~~(3-9-16)~~(8-31-17)T~~

~~b. A student who has obtained a general equivalency diploma must have taken the ACT assessment and received a minimum composite score of twenty (20) or better, or the equivalent SAT assessment and received a nine hundred fifty (950) one thousand ten (1,010) or better, to be academically eligible to apply for an opportunity scholarship; or ~~(3-9-16)~~(8-31-17)T~~

~~##c.~~ A student currently enrolled in an eligible Idaho postsecondary educational institution must have a minimum cumulative grade point average of three point zero (3.0) or better on a scale of four point zero (4.0) at such institution in order to be academically eligible to apply for an opportunity scholarship. Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) place. ~~(3-20-14)~~(8-31-17)T

03. Financial Eligibility. Applicants for the opportunity scholarship are selected as recipients, in part, ~~on the basis~~ based on of demonstrated financial need. The tool used to determine financial need ~~will be~~ is the Free Application for Federal Student Aid (FAFSA), used by the United States Department of Education. The financial need of an applicant for an opportunity scholarship will be based upon the ~~validated~~ verified expected family contribution, as identified by the FAFSA Student Aid report. The Student Aid report used to calculate financial need will be the report generated on the March 1 application deadline. ~~(3-20-14)~~(8-31-17)T

04. Additional Eligibility Requirements. (4-2-08)

a. A student must not be in default on a student educational loan, or owe a repayment on a federal grant, and must be in good financial standing with the opportunity scholarship program. (3-20-14)

b. If a student has attempted or completed more than one hundred (100) postsecondary academic credits, then such student must identify his or her major, the required number of credits necessary for graduation in such major, and shall submit an academic transcript that contains all courses taken and all postsecondary academic credit received to the Board office. A student shall not be eligible for an opportunity scholarship if: (3-20-14)

i. The student is not meeting satisfactory academic progress at the eligible Idaho postsecondary educational institution the student is attending at the time he or she applies for an opportunity scholarship; (4-2-08)

ii. The student has completed more than one hundred fifty percent (150%) of the courses and academic credit necessary to graduate in such major; or (4-2-08)

iii. Upon review of the student's academic transcript(s), the student cannot complete their degree/certificate in the major they have identified within two (2) semesters based on normal academic course load unless a determination by the executive director or designee has been made that there are extenuating circumstances and the student has a plan approved by the executive director or designee outlining the courses that will be taken and the completion date of the degree or certificate. ~~(3-9-16)~~(8-31-17)T

102. -- 201. (RESERVED)

202. APPLICATION PROCESS.

01. Initial Applications. An eligible student must complete and submit the opportunity scholarship program application to the Board electronically on or before the date specified in the application, but not later than March 1. An applicant without electronic capabilities may submit an application on the form established by the Board through the United States Postal Service, which must be postmarked not later than March 1. All applicants must complete and submit the FAFSA on or prior to March 1. ~~An applicant without electronic capabilities may submit an application on the form established by the executive director through the United States Postal Service, which must be postmarked by March 1.~~ ~~(3-9-16)~~(8-31-17)T

02. Announcement of Award. Announcement of the award of initial scholarships will be made no later than June 1 of each year, with awards to be effective at the beginning of the first full term following July 1 of that year. Announcements must clearly state the award is part of the state's scholarship program and is funded through state appropriated funds. Additional award announcement may be made after this date based on the availability of funds and the acceptance rate of the initial awards. (3-9-16)

03. Communication with State Officials. Applicants must respond by the date specified to any communication from officials of the opportunity scholarship program. Failure to respond within the time period specified will result in cancellation of the application or forfeiture of the scholarship unless extenuating circumstances are involved and approved by the state board of education executive director or designee. ~~(3-20-14)~~(8-31-17)T

203. -- 299. (RESERVED)

300. SELECTION OF SCHOLARSHIP RECIPIENTS.

01. **Selection Process.** Scholarship awards will be based on the availability of scholarship program funds. ~~In addition,~~ Opportunity scholarships will be awarded to applicants, based on ranking and priority, in accordance with the following criteria: ~~(3-20-14)~~(8-31-17)T

a. Eligible students shall be selected based on ~~rating~~ ranking criteria that assigns seventy percent (70%) to financial eligibility, and thirty percent (30%) to academic eligibility. In the event that this weighted score results in a tie, an eligible student who submitted his application to the Board earliest in time will be assigned a higher rank. ~~(3-20-14)~~(8-31-17)T

b. Notwithstanding Subsection 300.01.a. of these rules, the priority for the selection of recipients of opportunity scholarship awards shall be to scholarship recipients who received an ~~an~~ previous opportunity scholarship award ~~during the previous fiscal year~~, and have ~~met all of the~~ continuing eligibility ~~based upon financial need and other criteria~~ requirements provided in these rules. ~~(4-2-08)~~(8-31-17)T

02. **Monetary Value of the Opportunity Scholarship.** (4-2-08)

a. The Board will ~~by resolution each year~~ establish ~~annually~~ the educational costs for attending an eligible Idaho postsecondary educational institution for purposes of the opportunity scholarship program. ~~The educational costs will be established as a not to exceed amount for each eligible Idaho postsecondary educational institution.~~ ~~(3-20-14)~~(8-31-17)T

b. The monetary value of the opportunity scholarship award to a student shall be based on the educational costs for attending an eligible Idaho postsecondary educational institution, less the following: (4-2-08)

i. The amount of the assigned student responsibility, established by the Board annually; (4-2-08)

ii. The amount of federal grant aid, as identified by the Student Aid Report (SAR) that is known at the time of award determination; (3-20-14)

iii. The amount of other financial aid awarded the student, from private or other sources that is known at the time of award determination. (3-20-14)

c. The amount of an opportunity scholarship award to an individual student shall not exceed the educational cost established by the Board annually, and shall not exceed the actual cost of tuition ~~and fees~~ at an Idaho public postsecondary educational institution, or if the student attends or will attend an Idaho private postsecondary educational institution, the average tuition at Idaho's public four (4) year postsecondary educational institutions. ~~(3-20-14)~~(8-31-17)T

301. OPPORTUNITY SCHOLARSHIP AWARD.

01. **Payment.** Payment of opportunity scholarship awards will be made in the name of the recipient and will be sent to a designated official at the eligible Idaho postsecondary educational institution in which the recipient is enrolled. The official must transmit the payment to the recipient within a reasonable time following receipt of the payment. (4-2-08)

02. **Duration.** Scholarships will be awarded on an annual basis and payments will correspond to academic terms, semesters, quarters, or equivalent units. In no instance will the entire amount of a scholarship be paid in advance to, or on behalf of, a scholarship recipient. The scholarship ~~may~~ covers up to four (4) educational years, or eight (8) semesters or equivalent for attendance at an eligible Idaho postsecondary educational institution. Awards are contingent on annual appropriations by the legislature and continued eligibility of the student. ~~(3-20-14)~~(8-31-17)T

03. **Eligibility.** If a student receives an opportunity scholarship payment and it is later determined that the student did not meet all of the Opportunity Scholarship Program eligibility requirements, then the student is considered in overpayment status, and must return program funds in accordance with the eligible Idaho

postsecondary educational institution's refund policy. (4-2-08)

302. CONTINUING ELIGIBILITY.

To remain eligible for renewal of an opportunity scholarship, the recipient must comply with all of the provisions of the Opportunity Scholarship Program and these rules, ~~in addition to the following requirements:~~ ~~(4-2-08)~~ ~~(8-31-17)T~~

01. Renewal Application. A scholarship recipient must complete and submit a renewal application in order to be considered for a continuing scholarship for each succeeding year and update and submit the FAFSA on or prior to March 1. (3-20-14)

02. Credit Hours. To remain eligible for renewal of an opportunity scholarship, the scholarship recipient attending a four (4) year eligible postsecondary institution must have completed a minimum of twenty-four (24) credit hours or its equivalent each academic year that the student received an opportunity scholarship award. A scholarship recipient attending a two (2) year eligible postsecondary institution must have completed a minimum of eighteen (18) credit hours or its equivalent each academic year that the student received an opportunity scholarship award. (3-9-16)

03. Satisfactory Academic Progress. To remain eligible for renewal of an opportunity scholarship, the scholarship recipient must have maintained a minimum cumulative grade point average of three point zero (3.0) on a scale of four point zero (4.0) during the time that the recipient received an opportunity scholarship award, and must be maintaining satisfactory academic progress, consistent within federal financial aid regulations as implemented at the eligible Idaho postsecondary educational institution at which the scholarship recipient was enrolled. ~~(3-20-14)~~ ~~(8-31-17)T~~

04. Maximum Duration of Scholarship Award. The award of an opportunity scholarship shall not exceed the equivalent of eight (8) semesters or the equivalent of four (4) academic years. (3-20-14)

05. Eligibility Following Interruption of Continuous Enrollment. A scholarship recipient whose continuous enrollment is interrupted for more than four (4) months but less than two (2) years for any reason but who intends to re-enroll in an eligible Idaho postsecondary educational institution must file a letter of intent to withdraw no later than sixty (60) days prior to the first day of the academic term of the discontinued attendance to the Office of the State Board of Education. Failure to do so may result in forfeiture of the scholarship. The Board's Executive Director or designee will review each request for interruption and notify the individual of approval or denial of the request. In addition, the individual must file a statement with the Board declaring his intent to re-enroll as a full-time undergraduate student in an academic or career technical program in an eligible Idaho postsecondary educational institution for the succeeding academic year no later than thirty (30) days prior to the first day of the academic term in which the individual intends to re-enroll within two (2) years of the approval of the request to withdraw. Failure to do so will result in forfeiture of the scholarship unless an extension has been granted. An extension of interruption of continuous enrollment period may be granted for eligible students due to military service in the United States armed forces, medical circumstances, or other circumstances approved by the ~~state board of education's~~ executive director. All requests for extension must be made sixty (60) days prior to the start of the succeeding academic year. ~~(3-9-16)~~ ~~(8-31-17)T~~

(BREAK IN CONTINUITY OF SECTIONS)

501. APPEALS.

Any opportunity scholarship applicant or recipient adversely affected by a decision made under provisions of these rules may file a written appeal ~~such adverse of the~~ decision ~~as follows.~~ ~~The opportunity scholarship applicant or recipient must appeal no later than~~ within thirty (30) days following notice of the decision, and the written statement must include the basis for the appeal. Decisions based on specific requirements established in Idaho Code or these rules may not be appealed. The appeal must be submitted to the executive director of the Board. The office of the board shall acknowledge receipt of the appeal within seven (7) days. The executive director of the Board may or may not agree to review the action, or may appoint a subcommittee of three (3) persons to hear the appeal, including at least one (1) financial aid administrator at an eligible postsecondary educational institution in Idaho. ~~(3-20-14)~~ ~~(8-31-17)T~~

01. Transmittal to Subcommittee. If the appeal is transmitted to the subcommittee, the subcommittee will review the appeal and submit a written recommendation to the executive director of the Board within fifteen (15) days from the time the subcommittee receives the appeal document. The opportunity scholarship applicant or recipient initiating the appeal will be notified by the chairperson of the subcommittee of the time and place when the subcommittee will consider the appeal and will be allowed to appear before the subcommittee to discuss the appeal. (3-20-14)

02. Subcommittee Recommendations. Following the subcommittee's decision, the executive director of the Board will present the subcommittee's recommendation to the full Board at the next regularly scheduled meeting of the Board. The opportunity scholarship applicant or recipient initiating the appeal may, at the discretion of the executive director of the Board, be permitted to make a presentation to the Board. (3-20-14)

03. Board Decision. The decision of the Board is final, binding, and ends all administrative remedies, unless otherwise specifically provided by the Board. The Board will inform the opportunity scholarship applicant or recipient in writing of the decision of the Board. (4-2-08)