

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 Department of Education:
IDAPA 08.02.03 - Rules Governing Thoroughness - Proposed Rule (Docket No. 08-0203-1805).

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 08/24/2018. 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 09/24/2018.

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 - Elizabeth Bowen

DATE: August 08, 2018

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

IDAPA 08.02.03 - Rules Governing Thoroughness - Proposed Rule (Docket No. 08-0203-1805)

Summary and Stated Reasons for the Rule

This proposed rule removes references to "annual measurable achievement objectives," which became obsolete with the adoption of the federal Every Student Succeeds Act (ESSA) in 2015.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was not conducted due to the nature of the rule. There is no anticipated negative fiscal impact on the state general fund.

Statutory Authority

I.C. 33-105, I.C. 33-1617.

cc: State Board of and State Department of Education - State Department of Education
Helen Price

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules must be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 08 – STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.03 – RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1805

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 Sections 33-105 and 33-1617, 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 August 15, 2018.

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:

When the No Child Left Behind Act (NCLB) was reauthorized to the Every Student Succeeds Act (ESSA) in December 2015, Annual Measureable Achievement Objectives (AMAOs) were made obsolete by a new accountability structure. This rulemaking action removes references to AMAOs.

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(2), Idaho Code, negotiated rulemaking was not conducted because the rule change is 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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Christina Nava, Director of English Learner and Migrant Education, at cnava@sde.idaho.gov or (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 August 22, 2018.

DATED this 20th Day of June, 2018.

Sherri Ybarra
Superintendent of Public Instruction
650 W State Street, 2nd Floor
PO Box 83720
Boise ID 83720-0027
Office: (208) 332-6800
Fax: (208) 334-2228

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-1805
(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 <https://boardofed.idaho.gov>. (3-29-10)

- a.** Arts and Humanities Categories: (3-24-17)
 - i.** Dance, as revised and adopted on August 11, 2016; (3-24-17)
 - ii.** Interdisciplinary Humanities, as revised and adopted on August 11, 2016; (3-24-17)
 - iii.** Media Arts, as adopted on August 11, 2016. (3-24-17)
 - iv.** Music, as revised and adopted on August 11, 2016; (3-24-17)
 - v.** Theater, as revised and adopted on August 11, 2016; (3-24-17)
 - vi.** Visual Arts, as revised and adopted on August 11, 2016; (3-24-17)
 - vii.** World languages, as revised and adopted on August 11, 2016. (3-24-17)
- b.** Computer Science, adopted on November 28, 2016. (3-24-17)
- c.** Driver Education, as revised and adopted on August 10, 2017. (3-28-18)
- d.** English Language Arts/Literacy, as revised and adopted on November 28, 2016. (3-24-17)
- e.** Health, as revised and adopted on August 11, 2016. (3-24-17)
- f.** Information and Communication Technology, as revised and adopted on August 10, 2017. (3-28-18)
- g.** Limited English Proficiency, as revised and adopted on August 21, 2008. (3-29-10)
- h.** Mathematics, as revised and adopted on August 11, 2016. (3-24-17)
- i.** Physical Education, as revised and adopted on August 11, 2016. (3-24-17)
- j.** Science, as revised and adopted on August 10, 2017. (3-28-18)
- k.** Social Studies, as revised and adopted on November 28, 2016. (3-24-17)
- l.** College and Career Readiness Competencies adopted on June 15, 2017. (3-28-18)
- m.** Career Technical Education Categories: (3-29-17)
 - i.** Agricultural and Natural Resources, as revised and adopted on August 31, 2017. (3-28-18)

- ii. Business and Marketing Education, as revised and adopted on August 31, 2017. (3-28-18)
- iii. Engineering and Technology Education, as revised and adopted on August 31, 2017. (3-28-18)
- iv. Health Sciences, as adopted on August 31, 2017. (3-28-18)
- v. Family and Consumer Sciences, as revised and adopted on August 31, 2017. (3-28-18)
- vi. Skilled and Technical Sciences, as revised and adopted on August 31, 2017. (3-28-18)
- vii. Workplace Readiness, as adopted on June 16, 2016. (3-29-17)

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. (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. (4-7-11)~~

043. **The Idaho English Language Proficiency Assessment (ELPA) Achievement Standards.** The Idaho English Language Proficiency Assessment (ELPA) Achievement Standards as adopted by the State Board of Education on October 18, 2017. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)

054. **The Idaho Standards Achievement Tests (ISAT) Achievement Level Descriptors.** Achievement Level Descriptors as adopted by the State Board of Education on April 14, 2016. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-29-17)

065. **The Idaho Extended Content Standards.** The Idaho Extended Content Standards as adopted by the State Board of Education on August 10, 2017. Copies of the document can be found at the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)

076. **The Idaho Content Standards Core Content Connectors.** The Idaho Content Standards Core Content Connectors as adopted by the State Board of Education on August 10, 2017. Copies of the document can be found at the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)

- a. English Language Arts, as adopted by the State Board of Education on August 10, 2017. (3-28-18)
- b. Mathematics, as adopted by the State Board of Education on August 10, 2017. (3-28-18)

087. **The Idaho Alternate Assessment Achievement Standards.** Alternate Assessment Achievement Standards as adopted by the State Board of Education on October 18, 2017. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)

098. **The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Deaf or Hard of Hearing.** As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (4-2-08)

~~**109.** **The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Blind or Visually Impaired.** As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (4-2-08)~~

110. The Idaho Special Education Manual. The Idaho Special Education Manual as adopted by the State Board of Education on August 10, 2017. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-28-18)

(BREAK IN CONTINUITY OF SECTIONS)

112. ACCOUNTABILITY.

School district, charter school district and public charter school accountability will be based on multiple measures aimed at providing meaningful data showing progress toward interim and long-term goals set by the State Board of Education for student achievement and school improvement. The state accountability framework will be used to meet both state and federal school accountability requirements and will be broken up by school category and include measures of student academic achievement and school quality as determined by the State Board of Education. (3-29-17)

01. School Category. (3-29-17)

a. Kindergarten through grade eight (K-8): Schools in this category include elementary and middle schools as defined in Subsection 112.05.f. (3-29-17)

b. High Schools, not designated as alternative high schools, as defined in Subsection 112.05.f. (3-29-17)

c. Alternative High Schools. (3-29-17)

02. Academic Measures by School Category. (3-29-17)

a. K-8: (3-29-17)

i. Idaho Standards Achievement Tests (ISAT) Proficiency. (3-29-17)

ii. ISAT growth toward proficiency based on a trajectory model approved by the State Board of Education. (3-29-17)

iii. ISAT proficiency gap closure. (3-29-17)

iv. Idaho statewide reading assessment proficiency. (3-29-17)

v. English Learners achieving English language proficiency. (3-29-17)

vi. English Learners achieving English language growth toward proficiency. (3-29-17)

b. High School: (3-29-17)

i. ISAT proficiency. (3-29-17)

ii. ISAT proficiency gap closure. (3-29-17)

iii. English Learners achieving English language proficiency. (3-29-17)

iv. English Learners achieving English language growth toward proficiency. (3-29-17)

v. Four (4) year cohort graduation rate, including students who complete graduation requirements prior to the start of the school district or charter schools next fall term. (3-29-17)

vi. Five (5) year cohort graduation rate, including students who complete graduation requirements

- prior to the start of the school district or charter schools next fall term. (3-29-17)
- c. Alternative High School: (3-29-17)
 - i. ISAT proficiency. (3-29-17)
 - ii. English learners achieving English language proficiency. (3-29-17)
 - iii. English learners achieving English language growth towards proficiency. (3-29-17)
 - iv. Four (4) year cohort graduation rate, including students who complete graduation requirements prior to the start of the school district or charter schools next fall term. (3-29-17)
 - v. Five (5) year cohort graduation rate, including students who complete graduation requirements prior to the start of the school district or charter schools next fall term. (3-29-17)
- 03. School Quality Measures by School Category.** (3-29-17)
- a. K-8: (3-29-17)
 - i. Students in grade 8 enrolled in pre-algebra or higher. (3-29-17)
 - ii. State satisfaction and engagement survey administered to parents, students, and teachers (effective starting in the 2018-2019 school year). (3-29-17)
 - iii. Communication with parents on student achievement (effective starting in the 2018-2019 school year). (3-29-17)
 - b. High School: (3-29-17)
 - i. College and career readiness determined through a combination of students participating in advanced opportunities, earning industry recognized certification, and/or participation in recognized high school apprenticeship programs. (3-29-17)
 - ii. State satisfaction and engagement survey administered to parents, students, and teachers (effective starting in the 2018-2019 school year). (3-29-17)
 - iii. Students in grade 9 enrolled in algebra I or higher. (3-29-17)
 - iv. Communication with parents on student achievement (effective starting in the 2018-2019 school year). (3-29-17)
 - c. Alternative High School: (3-29-17)
 - i. Credit recovery and accumulation. (3-29-17)
 - ii. College and career readiness determined through a combination of students participating in advanced opportunities, earning industry recognized certification, and/or participation in recognized high school apprenticeship programs. (3-29-17)
 - iii. State satisfaction and engagement survey administered to parents, students, and teachers (effective starting in the 2018-2019 school year). (3-29-17)
 - iv. Communication with parents on student achievement (effective starting in the 2018-2019 school year). (3-29-17)
- 04. Reporting.** Methodologies for reporting measures and determining performance will be set by the

State Board of Education. (3-29-17)

05. Annual Measurable Progress Definitions. For purposes of calculating and reporting progress, the following definitions shall be applied. (3-29-17)

a. 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~~ of these rules. (4-2-08)()

b. Idaho's English Language Assessment Proficiency Levels. There are six (6) levels of language proficiency for students testing on the Idaho English Language Assessment: Level 1, Level 2, Level 3, Level 4, Level 5, and Level 6. Definitions for these levels of language proficiency are adopted by reference in ~~Subsections 004.02 and 004.04~~ of these rules. (3-29-17)()

c. Annual Measurable Progress. (3-29-17)

i. ISAT Proficiency is defined as the number of students scoring proficient or advanced on the spring on-grade level ISAT. (3-29-17)

ii. The State Department of Education will make 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. (3-29-17)

iii. The State Board of Education will set long-term goals and measurements of interim progress targets toward those goals. The baseline for determining measurable student progress will be set by the State Board of Education and shall identify the amount of growth (percentage of students reaching proficiency) required for each intermediate period. (3-29-17)

d. 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 progress in any statewide assessment used for determining proficiency. A student is continuously enrolled if the student has not transferred or dropped-out of the public school. Students who are serving suspensions are still considered to be enrolled students. (3-29-17)

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 progress in any statewide assessment used for determining proficiency. (3-29-17)

e. 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 measurable progress in ISAT proficiency. 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. (3-29-17)

(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)

f. Schools. As used in this section, schools refers to any school within a school district or charter school district and public charter schools. (3-29-17)

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. An alternative high school is any school that contains grade twelve (12) and meets the requirements of Section 110 of these rules. (3-29-17)

v. 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)

vi. A “new school” for purposes of accountability is a wholly new entity receiving annual measurable progress 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. (3-29-17)

g. 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)

h. Graduation Rate. The graduation rate will be based on the rate of the cohort of students entering grade nine (9) during the same academic year and attending or exiting the school within a four (4) year or five (5)

year period as applicable to the measure being determined. In determining the graduation cohort the school year shall include the students who complete graduation requirements prior to the start of the school district or charter schools next fall term. School districts may only report students as having graduated if the student has met, at a minimum, the state graduation requirements, pursuant to Section 105, and will not be returning to the school in following years to complete required academic course work. 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 subgroups listed in Subsection 112.05.g.

(3-29-17)

i. Additional Academic Indicator. The State Board of Education will establish a target for all additional academic and school quality measures. All schools must maintain or make progress toward the additional academic and school quality measure target each year. The additional academic and school quality measure targets will be disaggregated by the subpopulations listed in Subsection 112.05.g.

(3-29-17)

~~**06. 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 Idaho's English language assessment and determined based on three (3) AMAOs:~~

~~(3-29-17)~~

~~**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)~~