



Eric Milstead
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

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

FROM: Kristin Ford - Legislative Research Analyst

DATE: April 06, 2016

SUBJECT: Temporary Rule

IDAPA 08.02.02 - Rules Governing Uniformity - Adoption of Temporary Rule - Docket No.
08-0202-1601

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Kristin Ford at the Legislative Services Office at (208) 334-4834. Thank you.

Attachment: Temporary Rule

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
www.legislature.idaho.gov

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1601

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is February 18, 2016.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 33-105, 33-1612, 33-1630 [33-1631], and 33-2002, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

In order to effectively respond to the issues of bullying and harassment in Idaho schools, a temporary rule has been adopted by the State Board of Education to meet the requirements set forth in Idaho Code Section 33-1630 [33-1631]. This statute compels school districts and public charter schools to provide ongoing professional development for all school staff; to develop a graduated series of consequences for students committing acts of bullying; and, to report incidents of bullying to the State Department of Education. Further, the rule provides the content of annual professional development related to the prevention, identification and response to harassment, intimidation and bullying; and clarification on a graduated series of consequences for policy violators.

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

To help protect the safety of our students, the temporary rule will provide clarity and consistency for school districts and public charter schools to comply with the requirements of Idaho Code Section 33-1630 [33-1631]. School districts and public charter schools require details pertaining to the implementation of this law in the current school year in order to conform to the statute and to protect students from bullying and harassment.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

There is no fee imposed through this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Matt McCarter, Director of Student Engagement and Career and Technical Readiness, at (208) 332-6961 or mamccarter@sde.idaho.gov.

DATED this 18th Day of February, 2016.

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

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 08-0202-1601
(Only Those Sections With Amendments Are Shown.)

111. BULLYING, HARASSMENT AND INTIMIDATION PREVENTION AND RESPONSE.

01. Dissemination of Information. School districts and charter schools shall make reasonable efforts to ensure that information on harassment, intimidation and bullying of students is disseminated annually to all school personnel, parents and students. (2-18-16)T

02. Professional Development. The content of ongoing professional development for school staff related to bullying, harassment and intimidation shall include: (2-18-16)T

a. School philosophy regarding school climate and student behavior expectations; (2-18-16)T

b. Definitions of bullying, harassment, and intimidation; (2-18-16)T

c. School prevention strategies or programs including the identification of materials to be distributed annually to students and parents; (2-18-16)T

d. Expectations of staff intervention for bullying, harassment, and intimidation; (2-18-16)T

e. School process for responding to bullying, harassment, and intimidation including the reporting process for students and staff, investigation protocol, the involvement of law enforcement, related student support services and parental involvement; and (2-18-16)T

f. Other topics as determined appropriate by the school district or charter school. (2-18-16)T

03. Graduated Consequences. Graduated consequences for a student who commits acts of bullying, harassment, and intimidation shall include a series of measures proportional to the act(s) committed and appropriate to the severity of the violation as determined by the school board of trustees, school administrators, or designated personnel depending upon the level of discipline. Graduated consequences should be in accordance with the nature of the behavior, the developmental age of the student, and the student's history of problem behaviors and performance. (2-18-16)T

a. Graduated consequences may include, but are not limited to: (2-18-16)T

i. Meeting with the school counselor; (2-18-16)T

ii. Meeting with the school principal and student's parents or guardian; (2-18-16)T

iii. Detention, suspension or special programs; and (2-18-16)T

iv. Expulsion. (2-18-16)T

b. The graduated consequences are not intended to prevent or prohibit the referral of a student who commits acts of harassment, intimidation or bullying to available outside counseling services, and/or to law enforcement pursuant to Section 18-917A, Idaho Code. (2-18-16)T

c. Students with disabilities may be afforded additional protections under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act; school districts and charter schools shall comply with applicable state and federal law when disciplining students with individualized education programs (IEPs) or 504 plans for committing acts of bullying, harassment, and intimidation. (2-18-16)T

04. Intervention. School district and charter school employees are authorized and expected to

intervene or facilitate intervention on behalf of students facing harassment, intimidation, and bullying. Intervention shall be reasonably calculated to: (2-18-16)T

- a. Correct the problem behavior: (2-18-16)T
- b. Prevent another occurrence of the problem: (2-18-16)T
- c. Protect and provide support for the victim of the act; and (2-18-16)T
- d. Take corrective action for documented systemic problems related to harassment, intimidation, or bullying. (2-18-16)T

05. Reporting. Annual reporting will occur at the end of the school year through an aggregate report identifying the total number of bullying incidents by school districts and charter schools, grade level, gender, and repeat offenders. The State Department of Education shall provide school districts and charter schools with the guidelines and forms for reporting. (2-18-16)T