

2011



School Safety within Building

**Idaho Statutes
and
Administrative Rules**

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TITLE 33. EDUCATION
CHAPTER 8. BUDGET AND TAX LEVY

§ 33-804A. School plant facilities reserve fund levy for safe school facilities

(1) Definition. As used in this section, public school facilities mean the physical plant of improved or unimproved real property owned or operated by a school district, including school buildings, administration buildings, playgrounds, athletic fields, etc., used by schoolchildren or school district personnel in the normal course of providing a general, uniform and thorough system of public, free common schools, but does not include areas, buildings or parts of buildings closed from or not used in the normal course of providing a general, uniform and thorough system of public, free common schools. The aspects of a safe environment conducive to learning as provided by *section 33-1612, Idaho Code*, that pertain to the physical plant used to provide a general, uniform and thorough system of public, free common schools are hereby defined as those necessary to comply with the safety and health requirements set forth in this section.

(2) Whenever under applicable law a board of trustees of a school district has identified on the basis of an independent inspection of the district's school facilities that some of those school facilities fail to comply with codes addressing safety and health standards for facilities (including electrical, plumbing, mechanical, elevator, fire safety, boiler safety, life safety, structural, snow loading, and sanitary codes) adopted by or pursuant to the Idaho uniform school building safety act, chapter 80, title 39, Idaho Code, adopted by the state fire marshal, adopted by generally applicable local ordinances, or adopted by rule of the state board of education and applicable to school facilities, and that those school facilities that do not comply with codes addressing unsafe or unhealthy conditions contain unsafe or unhealthy conditions that cannot be abated with the school district's income from current sources, that school district shall be eligible to participate in the Idaho safe schools facilities loan program administered by Idaho banks. Eligibility to participate in the Idaho safe schools facilities loan program shall not affect or disqualify any school district from eligibility to participate in any other program to abate unsafe or unhealthy conditions.

(3) In any school district in which a school plant facilities reserve fund has been created, the period for which the school plant facilities reserve fund levy may be in effect may extend beyond ten (10) years but not to exceed twenty (20) years, provided that:

(a) The board of trustees shall determine that all or a portion of the amount to be collected each year during the period of years in which the levy is collected is made to abate, repair or replace school facilities with unsafe or unhealthy conditions.

(b) The question of the levy to be submitted to the electors of a district and the notice of such election shall state the dollar amount proposed to be collected each year during the period of years in each of which the collection is to be made to abate, repair or replace school facilities for the purpose of providing buildings complying with codes defining safe and healthy conditions as required by applicable law.

(c) The election for such a levy conducted pursuant to this section shall be held on one (1) of the days authorized by *section 34-106, Idaho Code*.

The provisions of *section 33-804, Idaho Code*, that are not modified by this section shall apply to levies made pursuant to this section.

TITLE 33. EDUCATION

CHAPTER 9. SCHOOL FUNDS

§ 33-909. Public school facilities cooperative funding program -- Fund created

(1) In fulfillment of the constitutional requirement to provide a general, uniform and thorough system of public, free common schools, it is the intent of the state of Idaho to advance its responsibility for providing a safe environment conducive to learning by providing a public school facilities funding program to enable qualifying school districts to address unsafe facilities identified as unsafe under the standards of the Idaho uniform school building safety act.

(2) Participation in the program, for the purpose of obtaining state financial support to abate identified school building safety hazards, requires submission of an application to the public school facilities cooperative funding program panel. Application can be made by:

(a) Any school district that has failed to approve at least one (1) or more bond levies for the repair, renovation or replacement of existing unsafe facilities, within the two (2) year period immediately preceding submission of the application; or

(b) The administrator of the division of building safety, for a school district that has failed to address identified unsafe facilities as provided in chapter 80, title 39, Idaho Code.

(3) There is hereby created within the office of the state board of education the Idaho public school facilities cooperative funding program panel, hereafter referred to as the panel. The panel shall consist of the administrator of the division of building safety, the administrator of the division of public works and the executive director of the state board of education, or a designee appointed by a panel member. It shall be the duty of the panel to consider all applications made to it, and to either approve, modify or reject an application based on the most economical solution to the problem, as analyzed within a projected twenty (20) year time frame.

(4) The application shall contain the following information:

(a) The identified school building safety hazards and such other information necessary to document the deficiencies;

(b) The school district's plan for abating the defects, including costs and sources and amounts of revenue available to the school district;

(c) The market value for assessment purposes of the school district; and

(d) A detailed accounting of all bond and plant facility levies of the school district and the revenues raised by such levies.

For applications initiated by the administrator of the division of building safety pursuant to subsection (2)(b) of this section, the school district shall provide the information required in this subsection (4) if such information is not available to the administrator.

(5) In considering an application, the panel shall determine whether the plan as proposed is acceptable, or is acceptable with modifications as determined by the panel, or should be rejected. The panel shall notify the applicant of its decision, in writing, within sixty (60) days of receiving the application. At the same time the panel notifies the applicant, the panel shall send notification of an approved application or a modified application to the state board of education, along with the panel's specifications for the project and its cost.

(6) If an application received from a school district is accepted or modified by the panel, the local board of trustees of that school district, at the next election held pursuant to *section 34-106, Idaho Code*, shall submit the question to the qualified electors of the school district of whether to approve a bond in the amount of the cost of the project as approved by the panel.

(7) Within thirty-five (35) calendar days of receiving notification from the panel that an application submitted by the administrator of the division of building safety pursuant to subsection (2)(b) of this section has been approved or modified by the panel, or within thirty-five (35) calendar days of receiving certification from the panel that the question submitted to the electorate pursuant to subsection (6) of this section was not approved in the election, the state board of education shall appoint a district supervisor for interim state supervision of the local school district. The district supervisor shall be responsible for ensuring that the project, as approved by the panel, is completed and shall regularly report to the panel in a manner as determined by the panel upon approval of the project. The district supervisor shall also have the authority granted to said position by the provisions of *section 6-2212, Idaho Code*. A district supervisor's term of service shall continue for the duration of the project, and such person appointed as a district supervisor shall serve at the pleasure of the state board of education.

(8) Upon approval of an application or a modified application submitted by the administrator of the division of building safety pursuant to subsection (2)(b) of this section, or upon receipt of certification from the county that the question submitted to the electorate pursuant to subsection (6) of this section was not approved in the election, the panel shall certify the cost of the project, as approved by the panel, to the state department of education.

(a) The total cost of the project shall initially be paid by the state from the public school facilities cooperative fund.

(b) The district's share of costs that may be repaid through the levy provisions of this section shall not exceed the district's share of bond payment costs as calculated for the bond levy equalization support program in the fiscal year in which the application is made. Interest shall be charged on the unpaid balance of the district's share of costs, as such balance exists at the end of each fiscal year, at the rate of interest earned by the state treasurer on the investment of idle funds in that fiscal year.

(c) It shall be the responsibility of the state department of education to calculate a state-authorized plant facilities levy rate in accordance with the provisions of subsection (9) of this section, which, when imposed over a maximum period not to exceed twenty (20) years, may yield the revenues needed to repay the school district's share of the cost of the project.

(d) The levy rate calculated by the state department of education shall be certified by the department to the county or counties wherein the boundaries of the school district are contained, for assessment of the levy and collection of the revenues by such county or counties in the manner pro-

vided by law. The revenues collected by imposition of the state-authorized plant facilities levy shall be remitted to the state treasurer for deposit to the public school facilities cooperative fund.

(9) The annual state-authorized plant facilities levy rate shall be limited to the greater of:

(a) The difference between the school district's combined bond and plant facilities levy rates, and the statewide average bond and plant facility levy rates; or

(b) The statewide average plant facility levy rate.

The initial levy rate so calculated shall be established as the minimum levy rate that shall be imposed for the amount of time required to reimburse the state for the school district's share of the project cost, but not to exceed twenty (20) years, even if this period would not provide reimbursement of the entire amount of the school district's share of the cost of the project. The state department of education is authorized and directed to recalculate the levy rate on an annual basis, and is authorized to increase or decrease the levy rate according to the scheduled payback, but the levy rate shall not be less than the levy rate initially imposed. Provided however, if the levy rate calculated is estimated to raise more money than would be necessary to repay the district's share of costs, then the state department of education shall certify to the county or counties wherein the boundaries of the school district are contained, the moneys necessary to repay the district's share of costs.

(10) There is hereby created in the state treasury a public school facilities cooperative fund. The fund shall contain such moneys as may be directed pursuant to appropriation. Moneys in the fund shall be used exclusively to finance the public school facilities cooperative funding program, and are hereby continuously appropriated for such purposes as authorized by this section. Moneys in the fund shall be invested by the state treasurer in the same manner as provided under *section 67-1210, Idaho Code*, with respect to other idle moneys in the state treasury. Interest earned on the investments shall be credited to the school district building account.

TITLE 33. EDUCATION

CHAPTER 10. FOUNDATION PROGRAM – STATE AID -- APPORTIONMENT

§ 33-1017. School safety and health revolving loan and grant fund

(1) Fund created. There is hereby created a fund in the state treasury to be known as the school safety and health revolving loan and grant fund to which shall be credited all moneys that may be appropriated, apportioned, allocated and paid back to that fund. Moneys in this fund shall be used exclusively as provided in this section, except that moneys in this fund shall be returned to the budget stabilization fund as provided in this section.

(2) Approval of loan or grant. A school district that does not have the financial resources to abate unsafe or unhealthy conditions identified pursuant to *section 33-1613, Idaho Code*, and which is eligible to seek additional funds under subsection (5)(b)(ii) of *section 33-1613, Idaho Code*, may apply to the state treasurer for a loan and, if eligible, a grant from the safety and health revolving loan and grant fund. A school district that has borrowed money from the Idaho safe school facilities loan program may apply for a grant of interest from the safety and health revolving loan and grant

fund. The loan or grant shall be approved if the school district's application meets the criteria of *section 33-1613, Idaho Code*, and of this section. If the board of examiners finds that existing and anticipated loans or grants under this section have depleted the school safety and health revolving loan and grant fund to an extent that the fund does not have available sufficient moneys to loan to an eligible school district, the board of examiners shall declare that additional loans may be made from the budget stabilization fund in *section 57-814, Idaho Code*, up to any limits of the use of that fund provided by statute or declared by the governor in time of general revenue shortfalls or major disaster.

(3) Conditions of loan or grant -- Repayment of loan.

(a) The school district's application shall identify the unsafe or unhealthy conditions that would be abated with the proceeds of the loan or grant and, if a loan, shall propose a method of and timetable for abating those conditions and for repaying the loan.

(b) The state treasurer shall review the application to determine whether the application is for abatement of unsafe or unhealthy conditions as described in *section 33-1613, Idaho Code*, and to determine whether the estimated costs of abatement and proposed plan of abatement is reasonable. In reviewing the application, the state treasurer may call upon the assistance of the state division of building safety, the state fire marshal, the state department of administration, the state board of education, the state department of education, or other knowledgeable persons to determine whether conditions identified to be abated meet the criteria of *section 33-1613, Idaho Code*, and to determine whether the plan of abatement, estimated costs of abatement and proposed methods of abatement are reasonable. The state treasurer shall process the application for a loan or grant within thirty-five (35) days after its receipt.

(i) If the state treasurer determines that the application has not identified unsafe or unhealthy conditions as described in *section 33-1613, Idaho Code*, the state treasurer shall return the application with a written statement that contains reasons why the loan or grant application does not meet the criteria of this section and of *section 33-1613, Idaho Code*.

(ii) If the state treasurer determines that the application has identified unsafe or unhealthy conditions as described in *section 33-1613, Idaho Code*, the state treasurer shall then determine whether the application has proposed reasonable methods of and reasonable estimates of costs of abatement. The state treasurer shall approve the plan of abatement if the school district has proposed a reasonable method of abatement and if its estimated costs of abatement are reasonable; otherwise, the state treasurer shall return the application with a written statement how the application can be amended to qualify.

(c) If the application is for a loan, the state treasurer may accept the school district's proposed method of and timetable for repaying the loan or may impose reasonable alternative or substitute methods of and timetables for repayment consistent with this subsection, which alternative or substitute methods shall be binding on the school district. At a minimum, the school district shall be required to repay in each fiscal year succeeding the year of the loan an amount no less than the lottery proceeds that the school district would otherwise receive for that fiscal year and additional foundation support moneys, if any, accruing as a result of an initial overestimation of state average daily attendance support units and later distribution of residual amounts resulting from fewer support units than originally estimated. The loan shall provide for the school safety and health revolving loan and grant fund, or the budget stabilization fund, to the extent that it was the source of the

loan, to intercept the lottery proceeds that would otherwise go to the school district until the loan is fully repaid. In addition, the state treasurer may impose reasonable fiscal conditions on the school district during the term of loan repayment including, but not limited to, restrictions in use of otherwise unrestricted school district moneys to assist in repayment of the loan or in abatement of unsafe or unhealthy conditions, the declaration of a financial emergency during some or all of the term of repayment of the loan, or interception by the school safety and health revolving loan and grant fund of a portion of the state foundation program payments under chapter 10, title 33, Idaho Code, that would otherwise go to the school district to repay the loan. The initial term of the loan shall not exceed ten (10) years, but may be extended in the state treasurer's discretion for another ten (10) years.

(d) If a loan is approved, the state treasurer shall establish a line of credit for the school district and monthly reimburse the school district for costs incurred to abate the unsafe or unhealthy conditions identified as the reason for the loan. The state treasurer may prescribe forms and procedures for administration of this line of credit.

(e) A school district may repay its loan or any portion of its loan in advance at any time without penalty.

(4) Interest. Loans to school districts under this section shall bear interest at the average rate of interest that would be available to the state treasury were the loan funds retained in the state treasury, as determined by the state treasurer.

(5) Certification of loan funds spent. If a school district obtains a loan pursuant to this section, the board of trustees shall certify the total expenditures of loaned funds that were actually spent to abate unsafe and unhealthy conditions.

(6) Excess funds. If any funds loaned pursuant to this section were not spent on abatement of unsafe and unhealthy conditions, they must be returned to the school safety and health loan and grant fund or the budget stabilization fund, as the case may be. This subsection shall be judicially enforceable by the state treasurer, and any amounts due for repayment under this subsection may be recovered by offset from state foundation program moneys that would otherwise be paid to the school district.

(7) Eligibility for grant. After complying with the provisions of *section 33-1613, Idaho Code*, school districts that borrow money from the Idaho safe schools facilities loan program pursuant to *section 33-804A, Idaho Code*, or that refinance through the Idaho safe schools facilities loan program loans for money borrowed under this section or that finance abatement of unsafe and unhealthy conditions through indebtedness pursuant to chapter 11, title 33, Idaho Code, may apply for a grant from the school safety and health revolving loan and grant fund to pay for eligible interest costs incurred on loan proceeds used to abate unsafe and unhealthy conditions. If the school district's application for a grant is accepted, then the school district will qualify for a grant of the present value of the qualifying percentage of the interest costs of the loan associated with abating unsafe and unhealthy conditions as follows:

(a) If the school district is participating in the Idaho safe schools facilities loan program, within seven (7) days after the approved school district receives loan proceeds from the Idaho safe schools facilities loan fund, the state treasurer shall provide funds to the school district in the amount of the qualifying percentage of the present value of the interest costs associated with abating unsafe and unhealthy conditions.

(b) If a school district has obtained a loan from the school health and safety revolving loan and grant fund and has refinanced its loan through the Idaho safe schools facilities program and prepays the outstanding principal of its loan, the school district shall be eligible for a grant of the qualifying percentage of the present value of the outstanding interest costs associated with the pre-paid principal.

(c) If the school district has financed the abatement of unsafe or unhealthy conditions through indebtedness pursuant to chapter 11, title 33, Idaho Code, within seven (7) days after the school district receives bond proceeds, the state treasurer shall provide funds to the school district in the amount of the qualifying percentage of the present value of the interest costs associated with abating unsafe and unhealthy conditions.

(8) Present value. The present value of the interest costs associated with money borrowed under the Idaho safe schools facilities loan program shall be calculated by the state treasurer using a method of equal annual loan payments and a discount rate of the interest rate prescribed in subsection (4) of this section on the date that the school district receives funds from the Idaho safe schools facilities loan fund. The present value of the unpaid interest costs for principal prepayments to the school safety and health revolving loan and grant fund shall be calculated by the state treasurer by summing the unpaid interest that would be paid without the principal prepayment and discounting it at the interest rate prescribed in subsection (4) of this section on the date that the treasurer receives the prepayment. The present value of the interest costs associated with money borrowed by a school district in a bond issue shall be calculated by the state treasurer using the school district's actual schedule for making interest payments on the bonds and discounting those interest payments by the interest rate prescribed in subsection (4) of this section on the date that the school district receives funds from the bond issue.

(9) Qualifying percentage. The qualifying percentage of the interest costs of a school district applying for a grant of interest under this section shall be determined as follows: For a school district borrowing money under the Idaho safe schools facilities loan program or refinancing a loan made under this section with money borrowed under the Idaho safe schools facilities program or incurring bonded indebtedness for safe and healthy schools, the state treasurer shall express:

(a) the total of the bond and plant facilities levies imposed by the school district (including the levy for which the application is made), and

(b) the total levies imposed by the school district (including the levy for which the application is made)

as a fraction of assessed value for the most recent assessment against which the school district's existing levies are made.

The qualifying percentage of interest granted under this section shall be the higher of the amounts shown in the following tables:

Table 1 -- Bond and Plant Facilities Levies

Bond Plus Plant Facilities Levy	Qualifying Percentage
Less than .0019	10%
More than .0019 and less than .0029	20%

More than .0029 and less than .0039	30%
More than .0039	40%

Table 2 -- Total Levies

Total Levy	Qualifying Percentage
Less than .0060	0%
More than .0060 and less than .0072	25%
More than .0072 and less than .0084	50%
More than .0084 and less than .0096	75%
More than .0096	100%

(10) Interest costs for abatement of unsafe and unhealthy conditions. The interest costs for abatement of unsafe and unhealthy conditions shall be calculated by determining the percentage of the loan proceeds or prepayment of the loan that will be used to abate unsafe and unhealthy conditions.

(11) Procedures. The state treasurer may prescribe forms for applying for a loan or grant under this section. No actions taken under this section are contested cases or rulemaking subject to chapter 52, title 67, Idaho Code, and none of the contested case or rulemaking procedures of chapter 52, title 67, Idaho Code, apply to actions taken under this section.

(12) The state treasurer's authority to accept applications for and to approve grants of interest from the school safety and health revolving loan and grant fund shall cease on July 1, 2003.

TITLE 33. EDUCATION

CHAPTER 16. COURSES OF INSTRUCTION

§ 33-1613. Safe public school facilities required

(1) Definition. As used in this section, "public school facilities" means the physical plant of improved or unimproved real property owned or operated by a school district, a charter school, or a school for children in any grades kindergarten through twelve (12) that is operated by the state of Idaho, including school buildings, administration buildings, playgrounds, athletic fields, etc., used by schoolchildren or school personnel in the normal course of providing a general, uniform and thorough system of public, free common schools, but does not include areas, buildings or parts of buildings closed from or not used in the normal course of providing a general, uniform and thorough system of public, free common schools. The aspects of a safe environment conducive to learning as provided by *section 33-1612, Idaho Code*, that pertain to the physical plant used to provide a general, uniform and thorough system of public, free common schools are hereby defined as those necessary to comply with the safety and health requirements set forth in this section.

(2) Inspection. It is the duty of the board of trustees of every school district and the governing body for other schools described in subsection (1) of this section at least once in every school year to require an independent inspection of the school district's or other entity's school facilities to determine whether those school facilities comply with codes addressing safety and health standards for facilities, including electrical, plumbing, mechanical, elevator, fire safety, boiler safety, life

safety, structural, snow loading, and sanitary codes, adopted by or pursuant to the Idaho uniform school building safety act, chapter 80, title 39, Idaho Code, adopted by the state fire marshal, adopted by generally applicable local ordinances, or adopted by rule of the state board of education and applicable to school facilities. The inspection shall be done pursuant to chapter 80, title 39, Idaho Code, or by an independent inspector professionally qualified to conduct inspections under the applicable code. The results of the inspection shall be presented to the administrator of the division of building safety and the board of trustees or other governing body for its review and consideration.

(3) Abatement required -- Reporting. The board of trustees or other governing body shall require that the unsafe or unhealthy conditions be abated and shall instruct the school district's or other entity's personnel to take necessary steps to abate unsafe or unhealthy conditions. The board of trustees or other governing body must issue a report in the same school year in which the inspections are made declaring whether any unsafe or unhealthy conditions identified have not been abated. The state board of education shall, by rule, provide for uniform reporting of unsafe and unhealthy conditions and for uniform reporting of abatement or absence of abatement of unsafe and unhealthy conditions. Copies of such reports shall be provided to the administrator of the division of building safety and the board of trustees of the school district.

(4) Costs of and plan of abatement. If the school district or other entity described in subsection (1) of this section can abate all unsafe or unhealthy conditions identified with the funds available to the school district or other entity, it shall do so, and it need not separately account for the costs of abatement nor segregate funds expended for abatement. If the school district or other entity cannot abate all unsafe or unhealthy conditions identified with the funds available to it, the board of trustees or other governing body shall direct that a plan of abatement be prepared. The plan of abatement shall provide a timetable that shall begin no later than the following school year and that shall provide for abatement with all deliberate speed of unsafe and unhealthy conditions identified. The abatement plan shall be submitted to the administrator of the division of building safety. The school district or other entity shall immediately begin to implement its plan of abatement and must separately account for its costs of abatement of unsafe and unhealthy conditions and separately segregate funds for the abatement of unsafe and unhealthy conditions as required by subsection (5) of this section.

(5) Special provisions for implementation of plan of abatement.

(a) Notwithstanding any other provisions of law concerning expenditure of lottery moneys distributed to the school district or other entity, all lottery moneys provided to the school district or other entity for a school year in which the school district cannot abate unsafe or unhealthy conditions identified and not legally encumbered to other uses at the time and all lottery moneys for following school years shall be segregated and expended exclusively for abatement of unsafe and unhealthy conditions identified until all of the unhealthy and unsafe conditions identified are abated, provided, if the school district has obtained a loan from the safety and health revolving loan and grant fund, the provisions of *section 33-1017, Idaho Code*, and the conditions of the loan shall determine the use of the school district's lottery moneys during the term of the loan.

(b) If the lottery moneys referred to in paragraph (a) of this subsection will, in the board of trustees' or other governing bodies' estimation, be insufficient to abate the unsafe and unhealthy conditions identified, the plan of abatement shall identify additional sources of funds to complete the abatement of the unsafe and unhealthy conditions. The board of trustees may choose from

among the following sources, or from other sources of its own identification, but the plan of abatement must identify sufficient sources of funds for abatement.

(i) If the school district is not levying under chapter 8, title 33, Idaho Code, at the maximum levies allowed by law for levies that may be imposed by a board of trustees without an election, the board of trustees may increase any of those levies as allowed by law for the school year following the school year in which it was unable to abate unsafe or unhealthy conditions identified.

(ii) If the school district is levying under chapter 8, title 33, Idaho Code, at the maximum levies allowed by law for levies that may be imposed by the board of trustees without an election; or, if after increasing those levies to the maximum levies allowed by law for levies that may be imposed by the board of trustees without an election, there will still be insufficient funds to abate unsafe or unhealthy conditions identified, the school district, after giving notice and conducting a hearing, may declare a financial emergency and/or may apply for a loan or, if eligible, an interest grant from the safety and health revolving loan and grant fund as provided in *section 33-1017, Idaho Code*, to obtain funds to abate the unsafe or unhealthy conditions identified.

(iii) Upon the declaration of a financial emergency, the board of trustees shall have the power to impose a reduction in force, to freeze some or all salaries in the school district, and/or to suspend some or all contracts that may be legally suspended upon the declaration of a financial emergency; provided, that when a board of trustees declares a financial emergency, or when a declaration of a financial emergency is imposed by the state treasurer pursuant to *section 33-1017, Idaho Code*, and there is a reduction in force, some or all salaries are frozen, or some contracts are suspended, the payments to the school district under the foundation program of chapter 10, title 33, Idaho Code, and in particular the staff allowances under that chapter, shall not be reduced during the duration of the financial emergency as a result of a reduction in force, frozen salaries, or suspended salaries from what the staff allowance would be without the reduction in force, frozen salaries or suspended contracts.

(c) All costs of abatement for a program implementing plans of abatement under subsection (5) of this section must be separately accounted for and documented with regard to abatement of each unsafe or unhealthy condition identified. Funds obtained under *section 33-1017, Idaho Code*, must be used exclusively to abate unsafe or unhealthy conditions identified. Funds obtained pursuant to *section 33-1017, Idaho Code*, in excess of funds necessary to abate unsafe or unhealthy conditions identified must be returned as provided in *section 33-1017, Idaho Code*. Return of these funds shall be judicially enforceable as provided in *section 33-1017, Idaho Code*.

TITLE 39. HEALTH AND SAFETY
CHAPTER 41. IDAHO BUILDING CODE ACT

§ 39-4113. Plan reviews -- Maximum fees and school inspections

(1) The administrator shall establish a program for plan review and permit issuance entirely within the division of building safety. Plan reviews shall be for the provisions of this chapter and chapter 10, title 54, Idaho Code, chapter 26, title 54, Idaho Code, chapter 50, title 54, Idaho Code, and chapter 86, title 39, Idaho Code, pertaining to construction, alteration or repair of buildings or structures within the scope of the division's jurisdiction pursuant to this chapter. Plans for schools reviewed by the division shall not include a review for compliance with the provisions of chapter 2, title 41, Idaho Code, or for local planning and zoning requirements.

(2) Plan review fees shall be established by rules promulgated by the board. Local governments elected by school districts to perform building plan reviews for public schools as provided in this section shall not charge a fee for such review of building plans in excess of what the division has established by rule for building plan review services for public schools.

(3) Each manufacturer of commercial coaches and modular buildings shall submit the building plans for every model of such structure to the administrator for the purpose of review.

(4) (a) Public school building plans shall be approved by either the local government or the division of building safety, whichever the school district elects. Any city or county that has adopted by ordinance all the applicable codes pursuant to section 39-4109, Idaho Code, and the codes as permitted in chapter 10, title 54, Idaho Code, chapter 26, title 54, Idaho Code, and chapter 50, title 54, Idaho Code, shall be eligible to perform school plan reviews only if the following additional requirements are met: plans examiners performing building and energy code plan reviews shall hold current certification as a commercial building plans examiner by the International Code Council; examiners performing plumbing code plan reviews shall hold current certification as a plumbing inspector by the international association of plumbing and mechanical officials and shall be a licensed Idaho journeyman plumber; examiners performing electrical code plan reviews shall hold current certification as an electrical inspector by the national certification program for construction code inspectors and shall be a licensed Idaho journeyman electrician; and examiners performing mechanical code plan reviews shall hold current certification as a commercial mechanical inspector by the International Code Council.

(b) All plans examiners who perform public school plan reviews shall be either an employee of the division, an employee of the local jurisdiction in which the school is to be constructed, or performing plan reviews under an interagency contract between local jurisdictions, and shall meet the eligibility requirements as provided in subsection (4)(a) of this section.

(c) An eligible local government may contract with the division for review of any portion of the plans for which the local government does not have a properly certified plans examiner. A county may be deemed eligible to perform plan review services only for those types of installations for which they have authority pursuant to this chapter and chapter 50, title 54, Idaho Code, to adopt an enforcement program. Where an eligible county performs the plan review services, the electrical and plumbing code plan reviews shall be performed by the division at the hourly rate as established

in rule by the division. Any local government elected to perform plan review services for public schools shall provide the division a copy of all approved plans.

(d) Wherein the proposed work is valued in excess of one hundred thousand dollars (\$100,000), a school district may elect to utilize the school plan review services available from an eligible local government building code enforcement jurisdiction or from the division. Wherein the proposed work is valued at one hundred thousand dollars (\$100,000) or less, a school district may elect to use a local government without regard to the eligibility requirements in subsection (4)(a) of this section. Election by a school district shall be made by submitting a written certification to both the division and the involved local government.

(e) Public school plan review services provided by either the division or an eligible local jurisdiction pursuant to this section shall include a review of the following disciplines: building structural and nonstructural), mechanical, fuel gas, plumbing, electrical, accessibility, elevators, boilers, and energy conservation. At a minimum, plan review services shall include:

(i) A technical examination of all drawings and construction documents; and

(ii) The approval of such drawings and construction documents by determining whether such are in accord with the codes adopted pursuant to sections 394109, 541001, 542601 and 45001, Idaho Code, as well as in compliance with applicable provisions of section 72722, Idaho Code; and

(iii) A determination that the drawings and construction documents are in compliance, or noncompliance, with the applicable codes, code interpretation, and the identification of approved modifications or alternative materials, design or methods; and

(iv) The identification of the reviewing official(s), the date upon which plans are approved, as well as a stamp or some other similar mark on the plans evidencing approval.

(f) If a school district elects to utilize the plan review services of the division, it shall submit to the division of building safety three (3) sets of working drawings and specifications for new public school buildings or facilities and additions or alterations to existing facilities. The division will review the plans submitted to it pursuant to this section for compliance with the current editions of the codes specified in this chapter or within rules promulgated pursuant to this chapter by the board and by *section 39-8006, Idaho Code*.

(5) Public school building plans must be approved by either the local government or the division before the school district may advertise for bids. Once plans are reviewed and approved pursuant to this section, no material change can be made to such plans without review and approval of such change by the jurisdiction performing the plan review. All school construction or remodeling governed by this chapter shall be inspected by building inspectors certified in accordance with *section 39-4108, Idaho Code*, or by Idaho licensed architects or engineers to determine compliance with this chapter and the Idaho uniform school building safety act, chapter 80, title 39, Idaho Code. Nothing in this section shall limit the authority of local governments to issue building permits, perform fire code or other zoning and land use related plan reviews or provide a full range of building code enforcement activities as they relate to inspections of school buildings or facilities sited within their jurisdiction regardless of the election exercised by the school district pursuant to this section.

TITLE 39. HEALTH AND SAFETY
CHAPTER 80. UNIFORM PUBLIC SCHOOL BUILDING SAFETY

§ 39-8001. Short title

This act, comprised of *Sections 39-8001, 39-8002, 39-8003, 39-8004, 39-8005, 39-8006, 39-8007, 39-8008, 39-8009, 39-8010, 39-8011 and 39-8012, Idaho Code*, shall be known and may be cited as the "Idaho Uniform School Building Safety Act."

§ 39-8002. Declaration of purpose

The purpose of this act is to assure the safety of children and others who use Idaho's public schools by providing for a uniform school building safety code to apply to school buildings and by establishing procedures for achieving compliance with the code.

§ 39-8003. Scope

This act shall apply to all facilities, existing now or constructed in the future, that are owned, leased or used for educational purposes by public school districts, charter schools, or a school for children in any grades kindergarten through twelve (12) that is operated by the state of Idaho receiving state funding. The authority granted under this act shall not prohibit local governments from acting to enforce applicable building and fire codes.

§ 39-8004. Definitions

As used in this act:

- (1) "Administrator" means the administrator of the division of building safety or his designated representative.
- (2) "Day" shall mean a calendar day unless otherwise specified.
- (3) "Imminent safety hazard" means a condition that presents an unreasonable risk of death or serious bodily injury to occupants of a building.
- (4) "Licensed professional" means a person licensed by the state of Idaho as an architect or an engineer.
- (5) "Local government" means any city or county of this state.
- (6) "Serious safety hazard" means a condition that presents an unreasonable health risk or risk of injury to occupants of a building.

§ 39-8005. Idaho uniform school building safety code committee created -- Appointment -- Terms -- Quorum -- Meetings -- Compensation

There is hereby created within the office of the superintendent of public instruction the Idaho uniform school building safety code committee, hereafter referred to as the committee. The committee shall consist of eight (8) members and shall include one (1) representative from each of the following: the office of the superintendent of public instruction; the division of building safety; and the insurance industry, appointed by the department of insurance. The governor shall appoint three (3) members as follows: one (1) representative of local school boards; one (1) representative of school superintendents and a chairman, all of whom shall serve at his pleasure. The committee shall also include two (2) members of the Idaho legislature, one (1) appointed by the president pro tempore of the senate and one (1) appointed by the speaker of the house of representatives. A majority of the membership of the committee is a quorum. Upon completion of development of the Idaho uniform school safety code provided for in *section 39-8006, Idaho Code*, the committee shall meet at least annually to review and make any necessary revisions to the Idaho uniform school safety code. Each member of the committee shall be reimbursed for expenses as provided by *section 59-509(b), Idaho Code*, for each day spent in attendance at meetings of the committee.

§ 39-8006. Committee to develop Idaho uniform school building safety code -- Interim code

(1) The committee shall develop the Idaho uniform school building safety code to be adopted by rule of the administrator pursuant to *section 39-8007, Idaho Code*. The Idaho uniform school building safety code shall address elements of the national codes identified in *section 39-4109, Idaho Code*, and rule of the state board of education at *IDAPA 08.02.02.130*.

(2) Until the Idaho uniform school building safety code is adopted by rule pursuant to *section 39-8007, Idaho Code*, the national codes adopted under *section 39-4109, Idaho Code*, and rule of the state board of education at *IDAPA 08.02.02.130* shall serve as the interim Idaho uniform school building safety code.

§ 39-8006A. Best practices maintenance plan for school buildings

The administrator of the division of building safety and the state department of education shall consult and shall draft a best practices maintenance plan for school buildings which shall be supplied to the superintendent of each school district. Based on the best practices maintenance plan, each school district shall develop a ten (10) year plan and submit it to the state department of education for approval. Annually thereafter, the school district shall submit a report to the state department of education detailing the work completed pursuant to the maintenance plan and any revisions to that plan.

§ 39-8007. Powers and duties of the administrator

(1) The administrator shall enforce the provisions of this chapter in cooperation with the superintendent of public instruction and the building code advisory board.

(2) The administrator shall promulgate rules necessary to carry out the provisions of this chapter. Such rules shall be promulgated pursuant to the provisions of chapter 52, title 67, Idaho Code.

(3) The administrator shall establish a program for the timely review of public school construction plans as required by *section 39-4113(4)(f), Idaho Code*.

(4) Upon request, the administrator shall provide training to school districts on the Idaho uniform school building safety code.

§ 39-8008. Additional duties of administrator -- Right of inspection -- Posting

(1) The administrator shall have authority under this section to enter all public school facilities covered by this chapter at reasonable times to inspect, on an annual basis, such facilities for compliance with the Idaho uniform school building safety code; provided however, that inspections shall take into account the age of the school facilities and the appropriate codes that would have been in effect at the time of the construction of such facilities; provided further, that regardless of the codes in effect at the time of construction, imminent safety hazards found in public school facilities shall be identified and the provisions of this chapter relating to such imminent safety hazards shall apply.

(2) If the administrator finds a violation of the Idaho uniform school building safety code that he concludes does not constitute an imminent safety hazard or serious safety hazard, he shall notify in writing the school district superintendent, principal, board member, or other person in charge. Such notification shall state, in bold print, that the citations for violations or nonconformances constitute recommendations only.

(3) If the administrator finds a violation of the Idaho uniform school building safety code that he concludes constitutes a serious safety hazard, he shall immediately issue a written order or notice requiring the school superintendent, principal, board of trustees or other person in charge to eliminate the condition without delay and within the time specified by the administrator in the notice or order, but not exceeding one (1) year. The administrator may also designate a licensed professional to independently evaluate the identified condition prior to issuing a written order to eliminate the condition.

(4) If the administrator finds a violation of the Idaho uniform school building safety code that he concludes constitutes an imminent safety hazard, he shall, within two (2) working days, designate a licensed professional to independently evaluate the identified condition prior to issuing any report under this chapter. That licensed professional shall, within fourteen (14) days, complete its independent evaluation of the condition identified by the administrator and notify the administrator of its conclusions. If the administrator determines that the condition constituting an imminent safety hazard could reasonably be expected to cause death or serious physical harm before the evaluation of the designated licensed professional can be completed and before the condition can be eliminated, he shall determine the extent of the area where such condition exists and thereupon shall issue a written order or notice requiring the school district superintendent, principal, board of trustees or other person in charge to cause all persons, except those necessary to eliminate the condition, to be withdrawn from, and to be restrained from entering, such area pending the evaluation of the designated licensed professional. This order shall be withdrawn if the evaluation of the designated li-

censed professional does not concur with the administrator that the condition constitutes an imminent safety hazard as could reasonably be expected to cause death or serious physical harm before the condition can be eliminated.

(5) If upon receipt of the findings if the designated licensed professional, the administrator concludes that any condition by such licensed professional constitutes an imminent safety hazard, the administrator shall immediately serve, or cause to be served, written notice or order upon the school district superintendent, principal, board of trustees or other person in charge describing the imminent safety hazard. The administrator shall also notify in writing the state superintendent of public instruction of such imminent safety hazard. Upon receipt of such written notice or order, the school district superintendent, principal, board of trustees, or other person in charge shall require all changes necessary to eliminate the imminent safety hazard be made, without delay and within the time specified by the administrator in the notice or order. If the condition presenting an imminent safety hazard is not corrected within the specified time, or if the administrator determines that the condition constituting such imminent safety hazard could reasonably be expected to cause death or serious physical harm before the condition can be eliminated, if he has not previously done so he shall determine the extent of the area where such condition exists and thereupon shall issue an order or notice requiring the school district superintendent, principal, board member, or other person in charge to cause all persons, except those necessary to eliminate the condition, to be withdrawn from, and to be restrained from entering, such area. The school district superintendent, principal, board member, or other person in charge shall assist the administrator as necessary to post such areas to prevent injury.

(6) If the administrator finds a violation of the Idaho uniform school building safety code that he concludes constitutes a serious safety hazard and issues a written order or notice requiring the conditions to be eliminated in not more than one (1) year, and the school superintendent, principal, board of trustees, or other person in charge contests the administrator's finding that the condition is a serious safety hazard, then the school superintendent, principal, board of trustees, or other person in charge shall have fourteen (14) days from the date of the issuance of the administrator's written order or notice to request a hearing to initiate a contested case under chapter 52, title 67, Idaho Code. If a hearing is requested, the superintendent of public instruction shall appoint a hearing officer to consider the contested case. All administrative proceedings under this subsection shall be expedited as necessary to assure that serious safety hazards are eliminated as required by this section if the administrator's initial determination that there was a serious safety hazard is confirmed in the contested case proceedings.

(7) The administrator shall monitor the school district's progress in addressing any identified imminent safety hazard or serious safety hazard to ensure that appropriate corrective action was taken. The administrator may extend the time for completing corrective action if he deems necessary.

(8) Upon completion of corrective action and verification of such completion by the division of building safety and the department of administration, the administrator shall provide a report to the state superintendent of public instruction, the local superintendent of schools and the chair of the local school board.

(9) Annual inspections of public school facilities conducted by the administrator under the provisions of this section shall be funded pursuant to legislative appropriation.

§ 39-8009. Injunction

Upon failure of the district superintendent, principal, board of trustees, or other person in charge to comply with the requirements stated in any notice or order relating to an imminent safety hazard or serious safety hazard, the administrator may maintain an action in the name of the state of Idaho to enjoin the district superintendent, principal, board of trustees or other person in charge from acting in violation of such notice or order or from doing any action that interferes with the administrator carrying out his statutory duties. Such action shall be brought in the district court in which said acts are claimed to have been committed by filing a verified complaint setting forth said act. The court, if satisfied from such complaint or affidavits that the act complained of has been or is being committed and will persist, may issue a temporary writ without notice or bond enjoining the defendant from the commission of such act pending final disposition of the cause. The cause shall proceed as in other causes for injunction. If, at the trial, the commission of said act by the defendant be established and the court further finds it probable that the defendant will continue in such act or similar acts, the court shall enter a decree enjoining said defendant from committing said or similar acts.

§ 39-8010. Appeal to building code advisory board

(1) The Idaho building code advisory board shall, within ten (10) days after receipt of notice for an appeal, hear such appeal brought before it by a school district affected by any finding pursuant to this chapter that there exists in a school building a violation of the uniform school building safety code, provided however, that an appeal brought pursuant to this section shall not affect the ability of the administrator to obtain an injunction pursuant to *section 39-8009, Idaho Code*. Such hearing shall be governed by the provisions of chapter 52, title 67, Idaho Code. Final decisions of the board, other than code interpretations, are subject to judicial review in accordance with the provisions of chapter 52, title 67, Idaho Code.

(2) The board shall provide reasonable interpretations of the codes enumerated in this chapter.

(3) Within ten (10) days of the conclusion of the hearing, the board shall render its findings and decisions in writing to the state superintendent of public instruction, the administrator of the division of building safety and the appealing district.

§ 39-8011. Violations

(1) If a school district, the district superintendent, principal, board of trustees, or other person in charge willfully violates the provisions of this chapter, the state superintendent of public instruction shall withhold such ensuing apportionments as are necessary to make repairs to abate the identified imminent safety hazard or serious safety hazard. Withheld funds, not to exceed one and one-half percent (1 1/2%) of the district's appropriation, shall be disbursed only to pay for such repairs.

(2) If the funds that would be raised over two (2) fiscal years from applying the provisions of subsection (1) of this section are insufficient, in combination with all moneys that will be available in the district's school building maintenance allocation for the same period, to provide suffi-

cient moneys to abate the identified imminent or serious safety hazard, then the administrator shall submit an application to abate said hazard to the Idaho public school facilities cooperative funding program panel pursuant to *section 33-909, Idaho Code*.

(3) It is a misdemeanor to remove, without permission of the administrator, a notice or order posted pursuant to this chapter.

§ 39-8012. Severability

If any portion of this act, or the application of any provision of this act to any person or circumstance, shall be held invalid, the remainder of this act, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected.

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**IDAPA 07
TITLE 06
CHAPTER 01**

07.06.01 - RULES GOVERNING UNIFORM SCHOOL BUILDING SAFETY

000. LEGAL AUTHORITY.

The Administrator of the Division of Building Safety is authorized under Section 39-8007, Idaho Code, to promulgate rules concerning the enforcement and administration of the Idaho Uniform School Building Safety Act. (3-15-02)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 07.06.01, "Rules Governing Uniform School Building Safety," Division of Building Safety. (3-15-02)

02. Scope. These rules prescribe the Idaho Uniform School Building Safety Code and provide for enforcement and administration of the Idaho Uniform School Building Safety Act by the Administrator of the Division of Building Safety. (3-15-02)

002. WRITTEN INTERPRETATIONS.

The Division of Building Safety may have written interpretations of this chapter. These documents, if any, are available for public inspection and copying in the central office of the Division of Building Safety. (4-6-05)

003. ADMINISTRATIVE APPEALS.

Administrative appeals may be taken from any finding made by the Administrator of the Division of Building Safety pursuant to this chapter as provided by Section 39-8010, Idaho Code. (3-15-02)

004. INCORPORATION BY REFERENCE.

01. Uniform Codes. The following uniform codes are hereby incorporated by reference into these rules as, and insofar as, the most recent editions have been adopted by the appropriate governing authority for the state of Idaho pursuant to Sections 39-4109, 41-253, 39-8614, 54-1001, 54-2601, 54-5001, and 72-508, Idaho Code: (3-29-10)

- a.** International Building Code; (3-29-10)
- b.** International Mechanical Code; (3-29-10)
- c.** International Fuel Gas Code; (3-29-10)
- d.** Safety Code for Elevators and Escalators (ASME/ANSI A17.1); (3-29-10)
- e.** International Energy Conservation Code; (3-29-10)
- f.** Accessible and Usable Buildings and Facilities (ICC/ANSI A117.1); (3-29-10)
- g.** International Fire Code (IFC); (3-29-10)
- h.** National Electrical Code (NEC); (3-29-10)
- i.** Uniform Plumbing Code (UPC); (3-29-10)
- j.** Pacific NW AWWA Manual for Backflow Prevention and Cross Connection Control; and (3-29-10)
- k.** Idaho General Safety and Health Standards. (3-29-10)

02. Idaho Uniform School Building Safety Code. The codes set forth in Subsection 004.01 of this rule, together with the definitions contained therein and the written interpretations thereof, insofar as they are applicable to school facilities, shall constitute the Idaho Uniform School Building Safety Code. A copy of each of the identified codes is available for review at the main office of the Division of Building Safety. (3-29-10)

005. (RESERVED).

006. CITATION.

The official citation of this chapter is IDAPA 07.06.01, et seq. For example, the citation for this section is IDAPA 07.06.01.006. (3-15-02)

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Act. The Idaho Uniform School Building Safety Act, Section 39-8001, et seq., Idaho Code. (3-15-02)

02. Administrator. The Administrator of the Division of Building Safety for the state of Idaho. (3-15-02)

03. Building Code. The Building Code specified in Paragraph 004.01.a. of these rules. (4-6-05)

04. Code. The Idaho Uniform School Building Safety Code. (3-15-02)

05. Division. The Idaho Division of Building Safety. (3-15-02)

06. Imminent Safety Hazard. A condition that presents an unreasonable risk of death or serious bodily injury to occupants of a building. (3-15-02)

07. School Building or Building. Any school building, including its structures and appurtenances necessary for the operation of the school building, and subject to the provisions of the Act. (3-15-02)

08. Serious Safety Hazard. A condition that presents an unreasonable health risk or risk of injury to occupants of a building. (4-6-05)

011. -- 049. (RESERVED).

050. VIOLATION OF CODE.

01. Duty to Act. The Administrator shall immediately undertake the steps set forth in the Act whenever he shall find a violation of the Code. (3-15-02)

02. Imminent Safety Hazard. Code violations, which shall constitute an imminent safety hazard, include, but are not limited to, the following: (3-15-02)

a. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic; (3-15-02)

b. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic; (3-15-02)

c. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one half (1-1/2) times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location; (3-15-02)

- d.** Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location; (3-15-02)
- e.** Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property; (3-15-02)
- f.** Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half (1/2) of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings; (3-15-02)
- g.** Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction; (3-15-02)
- h.** Whenever the building or structure, or any portion thereof, because of: (3-15-02)
- i.** Dilapidation, deterioration or decay; (3-15-02)
- ii.** Faulty construction; (3-15-02)
- iii.** The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (3-15-02)
- iv.** The deterioration, decay or inadequacy of its foundation; or (3-15-02)
- v.** Any other cause, is likely to partially or completely collapse; (3-15-02)
- i.** Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings; (4-6-05)
- j.** Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than fifty percent (50%), or in any supporting part, member or portion less than sixty-six percent (66%) of the: (3-15-02)
- i.** Strength; (3-15-02)
- ii.** Fire-resisting qualities or characteristics; or (3-15-02)
- iii.** Weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location; (3-15-02)
- k.** Whenever any building or structure, because of obsolescence; dilapidated condition; deterioration; damage; inadequate exits; lack of sufficient fire-resistive construction; faulty electric wiring, gas connections or heating apparatus; or other cause, is determined by the state fire marshal to be a fire hazard; (3-15-02)
- l.** Whenever a building or structure, because of inadequate maintenance; dilapidation; decay; damage; faulty construction or arrangement; inadequate light, air or sanitation facilities; or otherwise, is determined to be unsanitary, unfit for human occupancy or habitation, or in such a condition that is likely to cause accidents, sickness, or disease; (3-15-02)
- m.** Whenever any building or structure, because of dilapidated condition; deterioration; damage;

inadequate exits; lack of sufficient fire-resistive construction; faulty electric wiring, gas connections, or heating apparatus; or other cause, is determined by the state fire marshal to be a fire or life safety hazard; and (3-15-02)

n. Whenever there is, within the building, the presence of vapors, fumes, smoke, dusts, chemicals, or materials in any form (natural or man made) in quantities that have been established by national health organizations to be a threat to the health or safety of the building occupants. This does not include materials stored, used, and processed in accordance with nationally recognized safety standards for the materials in question. (3-15-02)

051. -- 999. (RESERVED).

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04. Evaluation Policy - Frequency of Evaluation. The evaluation policy should include a provision for evaluating all certificated personnel on a fair and consistent basis. At a minimum, the policy must provide standards for evaluating the following personnel: (4-1-97)

a. First-, second-, and third-year nonrenewable contract personnel will be evaluated at least once prior to the beginning of the second semester of the school year. (4-1-97)

b. All renewable contract personnel will be evaluated at least once annually. (4-1-97)

05. Evaluation Policy - Personnel Records. Permanent records of each certificated personnel evaluation will be maintained in the employee's personnel file. All evaluation records will be kept confidential within the parameters identified in federal and state regulations regarding the right to privacy (Section 33-518, Idaho Code). (4-1-97)

121. -- 129. (RESERVED).

130. SCHOOL FACILITIES.

Each school facility consists of the site, buildings, equipment, services, and is a critical factor in carrying out educational programs. The focus of concern in each school facility is the provision of a variety of instructional activities and programs, with the health and safety of all persons essential. (4-1-97)

01. Buildings. All school buildings, including portable or temporary buildings, will be designed and built in conformance with the current edition of the codes specified in the Idaho Building Code Act, Section 39-4109, Idaho Code, including, the National Electrical Code, Uniform Plumbing Code, and Idaho General Safety and Health Standards. All school buildings, including portable or temporary buildings, will meet other more stringent requirements established in applicable local building codes. (3-16-04)

02. Inspection of Buildings. All school buildings, including portable or temporary buildings, will be inspected as provided in Section 39-4130, Idaho Code, for compliance with applicable codes. Following this inspection, the school district will, within twenty (20) days, (1) correct any deficiencies specified in the inspection report or (2), if the corrective action involves structural modification, file a written plan with the inspecting agency for correction by the beginning of the following school year. (4-1-97)

131. -- 139. (RESERVED).

140. ACCREDITATION.

All public secondary schools, serving any grade(s) 9-12, will be accredited. Accreditation is voluntary for elementary schools, grades K-8, and private and parochial schools. (Section 33- 119, Idaho Code) (4-2-08)

01. Continuous School Improvement Plan. Schools will develop continuous school improvement plans focused on the improvement of student performance. (4-2-08)

02. Standards. Schools will meet the accreditation standards of the Northwest Association of Accredited Schools. (4-2-08)

03. Reporting. An annual accreditation report will be submitted to the State Board of Education. (4-2-08)

141. -- 149. (RESERVED).

150. TRANSPORTATION.

Minimum School Bus Construction Standards. All new school bus chassis and bodies must meet or exceed Standards for Idaho School Buses and Operations as incorporated in Section 004 of these rules and as authorized in Section 33-1511, Idaho Code. (5-8-09)

151. -- 159. (RESERVED).

district where the public charter school will be physically located. (4-11-06)

301. COMPLIANCE MONITORING.

The Commission shall be responsible for ensuring the public charter school operates in accordance with all of the terms and conditions of the approved charter, including compliance with all applicable federal and state education standards and all applicable state and federal laws, rules and regulations, and policies. See IDAPA 08.02.04, "Rules Governing Public Charter Schools," Subsection 301.01. Commission staff will make a site visit and verify the existence of the following documents after the charter is granted: (4-11-06)

01. Certificate of Occupancy. Certificate of Occupancy for the public charter school site no later than thirty (30) days prior to the opening of the school; (4-11-06)

02. Building Inspection Reports. A copy of the inspection report from the Idaho Division of Building Safety to be submitted no later than thirty (30) days before the school initially opens and then within seven (7) days of receipt, thereafter; (4-11-06)

03. Lease Agreement. If school structures are being leased, a copy of the lease agreement for the building(s) at which students will be taught; (4-11-06)

04. Fire Marshal Report. A fire marshal report for the public charter school site; (4-11-06)

05. Financial Statements. Audited financial statements from an independent auditor must be submitted as required by Section 33-701, Idaho Code; (4-11-06)

06. Reports. Copies of the following reports within five (5) business days of said reporting being submitted; (4-11-06)

a. All reports submitted to the State Department of Education including, but not limited to, the Idaho Basic Education Data System ("IBEDS"); (4-11-06)

b. All reports submitted to the Board; and (4-11-06)

c. All reports submitted to federal education agencies including, but not limited to, reports required by the No Child Left Behind Act and the Individuals with Disabilities Education Act. (4-11-06)

07. Accreditation Reports. A copy of the public charter school's accreditation report must be submitted within five (5) business days of receipt. See Section 33-5206(7), Idaho Code; (4-11-06)

08. Complaints. Copies of any complaints filed against the public charter school including, but not limited to, lawsuits and complaints filed with the Idaho Professional Standards Commission relating to school employees, within five (5) business days of receipt; (4-11-06)

09. Insurance Binders. Copies of insurance binders from a company authorized to do business in Idaho for a liability policy, a property loss policy, worker's compensation insurance, unemployment insurance, and health insurance no later than thirty (30) days prior to the opening of school and thereafter, thirty (30) days before the expiration of the insurance policies; (4-11-06)

10. Board Members. A current list of all public charter school board members, including full name, address, telephone number, and resume must be on file with the Commission within five (5) business days of any changes; (4-11-06)

11. Goals Attainment. Reporting to be submitted by the close of the school year demonstrating the students' level of attainment of the established skills and knowledge specified as goals in the public charter school's educational program. See Section 33-5206(7), Idaho Code; (4-11-06)

12. Programmatic Operations Audit. An audit of the programmatic operations of the public charter school as required by Section 33-5205(3)(k), Idaho Code, must be submitted no later than October 15th for the

previous school year. See Section 33-5206(7), Idaho Code; (4-11-06)

13. Health District Inspection Certificate. A copy of the health certificate issued by the health district for each site at which students will be taught; (4-11-06)

14. Proof of Compliance. Proof the public charter school board is in compliance with all federal, state, and local rules, regulations, and statutes relating to education, health, safety, and insurance at least thirty (30) days before the first day of operation of the public charter school for each school year; (4-11-06)

15. Criminal History Checks. A copy of the criminal history checks for all employees as required by Sections 33-130 and 33-5210(4)(d), Idaho Code, no later than thirty (30) days prior to the first day of school; (4-11-06)

16. Instructional Staff Certification. Proof of certification for all instructional staff employed by the public charter school must be submitted no later than thirty (30) days prior to the first day of school; and (4-11-06)

17. School Calendar. Daily schedule, and instructional hours. Ninety (90) days before the commencement of each school year, documentation must be submitted to the Commission detailing the school's calendar for the school year, daily schedule, and documentation of the appropriate number of instructional hours for students at each grade level. (4-11-06)

302. -- 399. (RESERVED).

400. PETITION -- PUBLIC HEARING.

A public hearing, as required by Section 33-5205(2), Idaho Code, for consideration of a petition on its merits shall be conducted by the Commission. The Commission will: (4-11-06)

01. Charter Provisions. Consider the provisions of the public school charter petition. (4-11-06)

02. Petition Merits. Consider the merits of the petition including, but not limited to, the presentation by authorized representatives for the petition. (4-11-06)

03. Petition Support. Consider the level of employee and parental support of the petition. (4-11-06)

04. School District Comment. Consider any oral or written comments of an authorized representative of the school district in which the proposed public charter school would be physically located. (4-11-06)

05. Public Comment. Citizens intending to testify must notify the Commission the day of the meeting. Public comment will be limited to ten (10) minutes, unless otherwise determined by the Commission chairman. (4-11-06)

401. PETITION -- FORMAT.

All petitions submitted to the Commission must be in the following format. Information will only be considered if it is located in the correct Section. (4-11-06)

01. Cover Page. The cover page must include the following information: (4-11-06)

a. Name of proposed charter school; (4-11-06)

b. School year petitioning to open the school; (4-11-06)

c. Name of the school district affected by the attendance area; (4-11-06)

i. Where the public charter school building will be physically located; or (4-11-06)

ii. If it is a virtual school and the physical location of the main office; and (4-11-06)