HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

ADMINISTRATIVE RULES REVIEW

Table of Contents

2008 Legislative Session

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS

05.01.01 - Rules for Contract Providers
Docket No. ***05-0101-0701*** 2

05.01.02 - Rules and Standards for Secure Juvenile Detention Centers
Docket No. ***05-0102-0701*** 65

05.01.03 - Rules of the Custody Review Board
Docket No. ***05-0103-0701*** 68

IDAPA 11 - IDAHO STATE POLICE

11.07.01 - Rules Governing Motor Vehicles - General Rules
Docket No. ***11-0701-0701*** 77

11.11.01 - Rules of the Idaho Peace Officer Standards and Training Council
Docket No. ***11-1101-0701*** 85

11.11.04 - Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers
Docket No. ***11-1104-0701*** 120

IDAPA 21 - DIVISION OF VETERANS SERVICES

21.01.01 - Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure
Docket No. ***21-0101-0701*** 134

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS

05.01.01 - RULES FOR CONTRACT PROVIDERS

DOCKET NO. 05-0101-0701

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 20-504(9), 20-504(11), 20-531(4), 20-545(1), Idaho Code, and Prison Rape Elimination Act of 2003 (Public Act 108-79).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Further clarification of additional reporting requirements in Subsection 200.03 and clarification regarding sexual misconduct in Section 216 was needed based upon written comments.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 65 through 112.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Nancy Bishop, Deputy Attorney General, at 334-5100, extension 384.

DATED this 2nd day of November, 2007.

Nancy Bishop, Deputy Attorney General
Idaho Department of Juvenile Corrections
400 N. 10th Street, 2nd Floor
P.O. Box 83720, Boise, ID 83720-0285
Phone: 334-5100, ext. 384; Fax: 334-5120

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Section(s) 20-504(9), 20-504(11), 20-531(4), 20-545(1), Idaho Code, and Prison Rape Elimination Act of 2003 (Public Act 108-79).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule changes are needed to take care of housekeeping changes (use correct references to "juvenile" and "juvenile offender"), clarify sections that are confusing or ambiguous, such as incident reporting, reports, recordkeeping, training, room restrictions, and use of force and, finally, to add Prison Rape Elimination Act compliance sections.

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 IDAPA 04.11.01.811, negotiated rulemaking was not conducted because we shared the proposed changes with the contract providers and staff and allowed a limited period for comment while recognizing they will have another opportunity to comment from October 3 through October 24, 2007.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy Bishop, Deputy Attorney General, at 334-5100, extension 384.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 23rd day of August, 2007.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

000. LEGAL AUTHORITY.

~~***01.*** ***Section 20-504(2), Idaho Code****. Pursuant to Section 20-504(2), Idaho Code, the Idaho Department of Juvenile Corrections shall establish minimum standards for detention, care and certification of approved detention facilities based upon such standards.* *(4-6-05)*~~

0~~2~~1. Section 20-504(9), Idaho Code. Pursuant to Section 20-504(9), Idaho Code, the department shall establish minimum standards for the operations of all private residential and nonresidential facilities and programs which provide services to juvenile offenders. (4-6-05)

0~~3~~2. Section 20-504(11), Idaho Code. Pursuant to Section 20-504(11), Idaho Code, the department shall have authority to adopt such administrative rules pursuant to the procedures provided in Chapter 52, Title 67, Idaho Code, as are deemed necessary or appropriate for the functioning of the department and the implementation and administration of the Juvenile Corrections Act. (4-6-05)

~~***04.*** ***Section 20-504(14), Idaho Code****. Pursuant to Section 20-504(14), Idaho Code, the department, in cooperation with the courts and the counties, shall establish uniform standards for county juvenile probation services, as well as qualifications and standards for the training of juvenile probation officers.* *(4-6-05)*~~

~~***05.*** ***Section 20-531(4), Idaho Code****. Pursuant to Section 20-531(4), Idaho Code, the department shall adopt standards, policies and procedures for the regulation and operation of secure facilities.* *(4-6-05)*~~

0~~6~~3. Section 20-545(1), Idaho Code. Pursuant to Section 20-545(1), Idaho Code, the department shall have the power to adopt rules for the state juvenile corrections center as may be required by the Juvenile Corrections Act. (4-6-05)

0~~7~~4. Interstate Compact on Juveniles. By the provisions of Sections 16-1901, et seq., Idaho Code, the "Interstate Compact on Juveniles," the department is authorized to promulgate rules and regulations to carry out more effectively the terms of the compact. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.
As used in this chapter: (4-6-05)

01. Adult. A person eighteen (18) years of age or older. (4-6-05)

02. Assessment. The process of gathering information to determine risk and program

needs for the purpose of guiding placement decisions and to develop the service plan. (4-6-05)

03. Clinical Services Administrator. Administrative person who has oversight of the department's clinical services division. Supervises the regional clinical supervisors and works with the regional superintendents in the maintenance and development of treatment programs. (4-6-05)

04. Clinical Supervisor. Person who supervises juvenile services coordinators and clinicians in assigned regions. This person is responsible for recommending releases from department custody and approving transfers in collaboration with the clinical services administrator, and regional superintendent. This responsibility also includes oversight of the regional observation and assessment process, and assists in the maintenance and development of treatment programs. (4-6-05)

05. Commit. Commit means to transfer legal custody to the Idaho Department of Juvenile Corrections. (4-6-05)

06. Community Treatment Team. A team including the juvenile services coordinator, contract provider case manager, juvenile probation officer, family, and others, as necessary, who work together to provide input into each juvenile offender's service implementation plan, implement their respective sections of that plan, and monitor and report progress on treatment goals. ~~*(4-6-05)*~~( )

07. Contraband. Any item not issued or authorized by the contract provider. (4-6-05)

08. Confidential Information. Information that may only be used or disclosed as provided by state or federal law, federal regulations, or state rule. (4-6-05)

09. Contract Provider. A residential or nonresidential program under contract with the department to supervise juvenile offenders, provide accountability and competency development in the least restrictive setting, consistent with public safety. ~~*(4-6-05)*~~( )

10. Court. Means district court or magistrate's division thereof. (4-6-05)

11. Criminogenic Needs. Assessed juvenile offender risk factors or attributes of juvenile offenders that are directly linked to criminal behavior and, when changed, influence the probability of recidivism. ( )

1~~1~~2. Department. The Idaho Department of Juvenile Corrections. (4-6-05)

1~~2~~3. Detention. Detention means the temporary placement of juveniles who require secure custody for their own or the community's protection in physically restricting facilities. (4-6-05)

1~~3~~4. Director. The director of the Idaho Department of Juvenile Corrections. (4-6-05)

15. Education Plan. A written plan for general education students outlining the coursework they will complete each year towards meeting the Idaho Achievement Standards and

recommended coursework for their grade level and based on assessed academic, emotional, developmental and behavioral needs, and competencies. Students qualifying for Individuals with Disabilities Education Act (IDEA) services will have an Individual Education Plan (IEP) in lieu of an education plan. (____)

1~~4~~6. **Facility**. The physical plant associated with the operation of residential or nonresidential programs. (4-6-05)

1~~5~~7. **Facility Treatment Team**. The group of staff employed by the department or by the contract provider who have input into developing the juvenile offender's service implementation plan; who provide direct services to juvenile offenders; and who monitor and report on the progress on meeting the goals in that plan. The facility treatment team is responsible for working with the community treatment team to develop and implement the service implementation plan. ~~(4-6-05)~~(____)

18. **General Education Student**. A student who does not qualify for special education services under the IDEA. (____)

1~~6~~9. **Health Assessment**. The purpose of a health assessment is to thoroughly review and determine a juvenile offender's comprehensive health needs. This information is used to develop the medical terms of a juvenile offender's service plan. ~~(4-6-05)~~(____)

~~17~~20. **Health Screening**. The purpose of a health screening is to quickly identify a juvenile offender's immediate health needs and to determine if there are any immediate needs related to a chronic health condition. ~~(4-6-05)~~(____)

~~18~~21. **Health Services**. Health services are defined as including, but not limited to, routine and emergency medical, dental, optical, obstetrics, mental health, or other related health service. (4-6-05)

~~19~~22. **Incident Report**. A written document reporting any occurrence or event, or any other incident which threatens the safety and security of staff, juvenile offenders or others, or which threatens the security of the program and which requires a staff response. ~~(4-6-05)~~(____)

23. **Individual Community Pass**. An individual community pass includes any instance in which a juvenile offender leaves the contract provider's facility for a planned activity, without direct supervision by at least one (1) contract provider or department staff. Regular school or work attendance, regular participation in off-site treatment sessions or groups and other regular off-site activities specifically included in the service implementation plan or written reintegration plan and approved by the juvenile services coordinator are not included in this definition. Individual community passes include, but are not limited to: (____)

a. Day passes alone or with family or other, approved individuals; (____)

b. Day or overnight home visits; (____)

c. Recreational activities not otherwise approved as a part of a group activity; and (____)

d. Funeral leave. ( )

24. Individual Education Plan (IEP). A written document (developed collaboratively by parents and school personnel) which outlines the special education program for a student with a disability and is based on assessed academic, emotional, developmental and behavioral needs, and competencies. This document is developed, reviewed, and revised at an IEP meeting at least annually. ( )

2~~0~~5. Interns. A paraprofessional staff who is pursuing a degree and who, as a part of documented coursework with a college or university, may provide counseling or other services to juvenile offenders in the department's custody or their families, under direct supervision of qualified staff. ~~(4-6-05)~~( )

2~~1~~6. Judge. A district judge or a magistrate. (4-6-05)

2~~2~~7. Juvenile. A person less than eighteen (18) years of age or who was less than eighteen (18) years of age at the time of any act, omission or status bringing the person within the purview of the Juvenile Corrections Act. (4-6-05)

2~~3~~8. Juvenile Offender. A person under the age of eighteen (18), committed by the court to the custody, care and jurisdiction of the department for confinement in a secure facility following adjudication for a delinquent act which would constitute a felony or misdemeanor if committed by an adult. (4-6-05)

2~~4~~9. Juvenile Records. Information concerning the ~~*individual's*~~ juvenile offender's delinquent or criminal, personal, and medical history and behavior and activities while in custody, including but not limited to commitment papers, court orders, detainer, personal property receipts, visitors' lists, type of custody, disciplinary infractions and actions taken, grievance reports, work assignments, program participation, and miscellaneous correspondence. ~~(4-6-05)~~( )

~~25~~30. Juvenile Services Coordinator. An individual employed by the department who is responsible for the monitoring of therapeutic or rehabilitative treatment services to juvenile offenders participating in a treatment program. This responsibility includes monitoring service plans and progress reports and sharing information with family, community, courts, and with other department employees. ~~(4-6-05)~~( )

~~26~~31. Legal Custody. The relationship created by the court's decree which imposes upon the custodian responsibilities of physical possession of the juvenile offender, the duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care. ~~(4-6-05)~~( )

~~27~~32. Legal Guardian. A person appointed as guardian of a minor under the laws of Idaho. For the purposes of this chapter, legal guardian does not include and shall not be construed to include the owner, operator or the agent of an owner or operator of a detention center, observation and assessment center, secure facility, residential facility or other facility having temporary or long-term physical custody of the juvenile offender. (4-6-05)

~~28~~33. Mechanical Restraints. Any method of physical control of a juvenile offender which involves the use of devices to restrict physical activity. ~~(4-6-05)~~(____)

~~29~~34. Mental Health Assessment. The purpose of a mental health assessment is to thoroughly review and determine a juvenile offender's comprehensive mental health needs. This information is used to develop the medical terms of a juvenile offender's service plan. ~~(4-6-05)~~(____)

3~~0~~5. Mental Health Screening. The purpose of mental health screening is to quickly identify a juvenile offender's immediate mental health needs and to determine if there are any immediate needs related to a chronic mental health condition. ~~(4-6-05)~~(____)

3~~1~~6. Nonresidential Programs. Programs providing services to juveniles in the custody of the department and their families in which the juvenile offender continues to live with a parent or guardian and not in a residential care facility. ~~(4-6-05)~~(____)

3~~2~~7. Observation and Assessment Program. A residential or nonresidential program designed to complete assessments of juveniles in the custody of the department. (4-6-05)

3~~3~~8. Physical Restraint. Any method of physical control of a juvenile offender which involves staff touching or holding a juvenile offender to limit or control his actions. ~~(4-6-05)~~(____)

3~~4~~9. Quality Assurance. Department employees responsible for overseeing contract providers' compliance with contract terms and these rules. (4-6-05)

~~35~~40. Region. Subunits of the department organized by geographical areas and including all services and programs offered by the department in that area. (4-6-05)

~~36~~41. Regional Facility. Department operated juvenile correctional centers located in each region of the state. (4-6-05)

~~37~~42. Reintegration Plan. That part of the juvenile offender's service plan which specifically addresses the terms, conditions and services to be provided as the juvenile offender moves to a lower level of care or leaves the custody of the department. ~~(4-6-05)~~(____)

~~38~~43. Release from Department Custody. Refers to the termination of the department's legal custody of a juvenile. (4-6-05)

~~39~~44. Restitution. Financial payment or service work intended to reimburse victims for the cost of damage or harm caused by a juvenile offender. Restitution may be court ordered or may be imposed following a formal disciplinary process within a contract provider program. ~~(4-6-05)~~(____)

4~~0~~5. Restricted Clinical Information. Any record, document or other information legally protected from dissemination to the general public by statute or rule, such as psychological evaluations, therapy notes, therapy journals, sex histories, polygraph results, and psychological testing, or other legally confidential information. (4-6-05)

4~~1~~6. Room Confinement. Instances in which a juvenile offender is confined in the room in which he usually sleeps, rather than being confined in an isolation room. ~~*(4-6-05)*~~(____)

4~~2~~7. Separation or Isolation. Any instance when a juvenile offender is confined alone for over fifteen (15) minutes in a room other than the room in which he usually sleeps. ~~*(4-6-05)*~~(____)

4~~3~~8. Service Implementation Plan. A written document produced and regularly updated by a regional facility or contract provider with input from the community treatment team within thirty (30) days of arrival at regional facility or contract provider. This plan describes interventions and objectives to address the service plan goals including the areas of community protection, accountability, and competency development. ~~*(4-6-05)*~~(____)

4~~4~~9. Service Plan. A written document produced during the observation and assessment period following commitment to the department that defines the juvenile offender's criminogenic needs and risks, strengths, goals, and recommendations for family and reintegration services. The service plan addresses the relevant needs and services for each juvenile offender in areas such as mental health, medical, education, substance abuse, and social skills.~~*(4-6-05)*~~(____)

50. Sexual Misconduct. Sexual misconduct includes all types of assault, violence, intimidation, and harassment of a sexual nature directed toward juvenile offenders by staff or by other juvenile offenders. (____)

~~4~~51. Staffing. Regularly scheduled meetings of the community and facility treatment team members to review progress on treatment goals and objectives identified in each juvenile offender's service implementation plan. ~~*(4-6-05)*~~(____)

~~46~~52. Strip Search. An examination of the juvenile offender's naked body for weapons, contraband, injuries, or vermin infestations. This also includes a thorough search of all the juvenile offender's clothing while such is not being worn. ~~*(4-6-05)*~~(____)

~~47~~53. Suicide Risk Assessment. An evaluation performed by a mental health professional to determine the level of immediate risk of a juvenile offender attempting suicide, and to apply this information in developing a safety plan for the juvenile offender. ~~*(4-6-05)*~~(____)

~~48~~54. Suicide Risk Screening. An evaluation that is used to quickly determine, based upon known history and current behavior, whether a juvenile offender presents any identifiable risk of immediate suicidal behavior, and to call in a mental health professional to complete a suicide risk assessment. ~~*(4-6-05)*~~(____)

~~49~~55. Transfer. Any movement of a juvenile offender in the custody of the department from one (1) facility to another, including a regional facility, without a release from department custody. ~~*(4-6-05)*~~(____)

5~~0~~6. Treatment. Any program of planned services developed to meet risks and needs of juvenile offenders and their families, as identified in an assessment, and as related to activities designed to teach alternate behaviors and to support change in the beliefs that drive those

behaviors. Treatment as referenced in this context also includes the maintenance of conditions that keep juvenile offenders, staff and the community safe. ~~*(4-6-05)*~~(____)

5~~*1*~~7. Variation. The means of complying with the intent and purpose of a child care licensing rule in a manner other than that specifically prescribed in the rule. (4-6-05)

5~~*2*~~8. Vocational Services. Any service provided related to assessment, education, guidance or training in the area of work or basic living skills. (4-6-05)

5~~*3*~~9. Volunteer. A person from the community who freely chooses to do or provide both direct or indirect services to juvenile offenders or staff at a facility or juvenile correctional center. This person is not compelled to do so and is not compensated for the services. ~~*(4-6-05)*~~(____)

~~*54*~~60. Waiver. The nonapplication of one (1) or more of these rules based upon a request by the provider and a written decision issued by the department. (4-6-05)

~~*55*~~61. Work Program. A public service work project which employs juveniles at a reasonable wage for the purpose of reimbursing victims of juveniles' delinquent behavior. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

200. AUTHORITY TO INSPECT.

01. Inspections. The department shall have the authority to conduct reviews of programs, program operations, and facilities to ensure the contract provider's compliance with these rules. The contract provider shall cooperate with the department's review, and must provide access to the facility and all juvenile records for juveniles in department custody, as deemed necessary by the department. The department may ~~*not*~~ access individual juvenile records ~~*for*~~ of juveniles who have received services funded by the department but are not in the custody of the department. However, in order to more fully assess the operation of the program, aggregate data and information for all juveniles must be made available. ~~*(4-6-05)*~~(____)

02. ~~*Written*~~ Quarterly Reports. In order to assist the department in monitoring contract programs for key areas of operational performance, each contract provider will be required to submit a written, quarterly report to the department's quality assurance staff. These reports may be submitted by facsimile, mail, or electronically within thirty (30) calendar days of the end of each quarter. The reports shall include, at a minimum, the following information: ~~*(4-6-05)*~~(____)

a. Changes made in the population served~~,~~; (____)

b. Changes in program design or functioning~~,~~; (____)

c. Changes in program curriculum; ( )

d. Changes in *and table of* organizational chart*, including specific management and administrative staff who may have left the program*; *(4-6-05)*( )

***b*e.** All *S*staff turnover during the quarter; *(4-6-05)*( )

f. Copies of all incident reports; ( )

***e*g.** Number of reportable incidents of the type listed below: (4-6-05)

i. Assaults against juvenile offenders; *(4-6-05)*( )

ii. Assaults against staff; (4-6-05)

iii. Behavioral and psychiatric emergencies; (4-6-05)

iv. Contraband; (4-6-05)

v. Escapes; (4-6-05)

vi. Injuries or illness requiring significant medical attention; *(4-6-05)*( )

vii. Restraints; (4-6-05)

viii. Separation or isolation; (4-6-05)

ix. Sexual*ly acting out* misconduct; and *(4-6-05)*( )

x. Suicide precautions. (4-6-05)

***d*h.** Number of hours and topics included in staff training for the quarter; (4-6-05)

***e*i.** Personal funds, earned income, and restitution for each juvenile in department custody according to Subsection 212.02 of these rules; *(4-6-05)*( )

***f*j.** A copy of juvenile offender grievances and resolutions according to Subsection 246.02 of these rules;*and* *(4-6-05)*( )

***g*k.** Number of department referrals made and accepted*.*; and *(4-6-05)*( )

l. Number of department referrals made and rejected. ( )

03. Additional Reporting Requirements. In situations where the department has determined that the safety, security, or order of a program are at risk, more frequent and more detailed reporting will be required by the director, or designee. The department has a responsibility at all times to monitor the overall safety, security, and order of a facility or program for the protection and well-being of the juvenile offenders. For these reasons, the contract

provider shall report to the department any and all incidents of the type *normally requiring immediate notice to the department, as identified in Subsection 262.02*, that occur in their program or facility regardless of whether or not the juveniles involved are in the department's custody. *Any such reports regarding juveniles not in department custody shall include the type and scope of the incident without any information identifying the juvenile shall be made to the department's quality assurance staff.* ~~*(4-6-05)*~~*(____)*

(BREAK IN CONTINUITY OF SECTIONS)

205. TRANSPORTATION.

01. Transportation for Service Plan. It shall be the responsibility of the contract provider to provide all transportation associated with the juvenile offender's service implementation plan. The family may be relied upon to provide transportation for passes and some other community contacts as long as this does not present any undue risk or burden to the juvenile offender, family, or to the community. ~~*(4-6-05)*~~*(____)*

02. Transportation and Notification for Court Proceedings. It is the responsibility of the department to assure the juvenile offender's appearance in all court proceedings and to arrange transportation as indicated. It is the contract provider's responsibility to immediately notify the juvenile offender's juvenile services coordinator of court dates and appearances. Contract providers may provide transportation under this section in consultation with the juvenile services coordinator. ~~*(4-6-05)*~~*(____)*

03. Arrangements. Arrangements for transportation related to court appearances as well as related to transfer or release of juveniles from department custody shall be made between the contract provider and the department's regional transport coordinator located in the contract provider's region. This communication is facilitated through the juvenile services coordinator. (4-6-05)

04. Gender Specific Transportation. In all transport situations there must be at least one (1) assigned staff of the same gender as the juvenile offender being transported. ~~*(4-6-05)*~~*(____)*

05. Transport in Personal Vehicles. Juveniles in the custody of the Idaho Department of Juvenile Corrections shall not be transported in personal vehicles unless an emergency situation exists and is substantiated by documentation. (4-6-05)

206. JUVENILE RECORDS.

01. Case Management Documents. The contract provider shall maintain individual files on all juvenile offenders which shall include: ~~*(4-6-05)*~~*(____)*

a. Observation and assessment report provided by the department; (4-6-05)

b. A copy of the signed Referral Acceptance/Denial Form; (4-6-05)

c. Additional assessments, which must be kept separate; (4-6-05)

d. Service implementation plans as referred to in Subsection 271.01 of these rules; (4-6-05)

e. Progress reports as referred to in Subsections 271.07 and 271.08 of these rules; (4-6-05)

f. Progress Assessment/Reclassification documents; ( )

~~f~~g. Incident reports as referred to in Subsections 262.02 and 262.03 of these rules; (4-6-05)

~~g~~h. Court documents and dispositions; (4-6-05)

~~h~~i. Professional correspondence; (4-6-05)

~~i~~j. Clinical notes, which must be kept separate; (4-6-05)

~~j~~k. Medical records, which must be kept separate; (4-6-05)

~~k~~l. Educational records and school history, which must be kept separate; (4-6-05)

~~l~~m. Identifying information and physical descriptions; (4-6-05)

~~m~~n. Last known parent or guardian address and telephone number; (4-6-05)

~~n~~o. Date of admittance and projected release from department custody; (4-6-05)

~~o~~p. A copy of the written reintegration plan; and (4-6-05)

~~p~~q. Records of juvenile offenders' earnings and restitution payments. ~~(4-6-05)~~( )

02. Confidentiality. (4-6-05)

a. Sections 20-525 and 9-340(2)(b), Idaho Code, and Idaho Court Administrative Rule 32 provide for confidentiality, under certain conditions, of records that contain information about juvenile offenders. ~~(4-6-05)~~( )

b. All matters relating to confidentiality of juvenile offender files shall also comply with the federal Health Insurance Portability and Accountability Act (HIPAA) and 42 CFR Chapter 1, Sub-Chapter A, Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records." ~~(4-6-05)~~( )

c. Restricted clinical information, as defined, and education and medical records must each be filed separately and stored in a secured area. These file folders must be stamped

"confidential" on the cover or outside folder. (4-6-05)

d. For contract providers that serve sex offenders, individual treatment assignments, such as journals, detailed sexual histories, must be destroyed at the time the juvenile offender is transferred or released from the program. ~~*(4-6-05)*~~(____)

03. Automated Records. Automated records shall include a procedure to ensure confidentiality and be in compliance with any state or federal privacy laws pertaining to those records. The procedure shall also include provisions for backing up automated records. (4-6-05)

04. Policies and Procedures. The contract provider shall have written policies and procedures to address the confidentiality of juvenile offender records. In compliance with HIPAA's privacy regulations, written procedures shall designate a privacy officer who will: ~~*(4-6-05)*~~(____)

a. Supervise the maintenance of identifiable personal health care information; (4-6-05)

b. Serve as custodian of all confidential juvenile offender records; and~~*(4-6-05)*~~(____)

c. Determine to whom records may be released. (4-6-05)

05. Restrictions to Records Access. (4-6-05)

a. Access to personal health information shall be limited to: (4-6-05)

i. Employees of the department and contract providers to the extent necessary to perform normal business functions, including health treatment, and other functions designed to maintain the good order, safety and security of the juvenile offenders or facility; ~~*(4-6-05)*~~(____)

ii. Individuals participating in a staffing for a juvenile offender, who have a direct need to know the information, and who are obligated to or promise to maintain the confidentiality of information disclosed. These individuals may include employees or representatives of law enforcement, the department, the contract provider, probation officer, medical or mental health professionals and other appropriate individuals; ~~*(4-6-05)*~~(____)

iii. Law enforcement members, emergency medical personnel, the Idaho Department of Health and Welfare and similar court or government officials, as necessary to perform their duties, and only if not otherwise prohibited by state or federal law or rule. (4-6-05)

b. Access to all other confidential juvenile offender records shall be limited to the following authorized persons: ~~*(4-6-05)*~~(____)

i. Staff authorized by the contract provider and members of the administrative staff of the contract provider's parent agency; (4-6-05)

ii. A parent or guardian or the juvenile offender, to the extent that disclosure is not privileged and is clinically appropriate; ~~*(4-6-05)*~~(____)

iii. Appropriate staff of the department; (4-6-05)

iv. Counsel for the juvenile offender with signed consent form; ~~(4-6-05)~~(____)

v. Judges, prosecutors, juvenile probation officers, and law enforcement officers, when essential for official business; (4-6-05)

vi. Individuals and agencies approved by the department to conduct research and evaluation or statistical studies; or (4-6-05)

vii. Schools, as appropriate. (4-6-05)

06. Withholding of Information. If the department or the contract provider believes that information contained in the record would be damaging to the juvenile offender's treatment or rehabilitation, that information may be withheld from the juvenile offender, or his parent, or guardian, or others, except under court order. ~~(4-6-05)~~(____)

07. Retention of Juvenile Records. Educational, medical, and drug and alcohol records must be permanently retained. Contract providers shall have a written policy on the retention and disposal of records. At the time of transfer or release from department custody, all case management records must be forwarded to the juvenile offender's juvenile services coordinator. ~~(4-6-05)~~(____)

08. Requests for Information. Requests for information of any kind about juvenile offenders in department custody, following their release or transfer from a contract provider's program must be directed to the juvenile correctional center in Nampa. ~~(4-6-05)~~(____)

207. RELEASE FORMS.

01. Release of Nonmedical Information. The juvenile offender, parent or guardian, and department representative shall sign a release of information and consent form before information about the juvenile offender is released to any non-juvenile justice entity. A copy of the consent form shall be maintained in the juvenile offender's file at the program and in the case management file maintained by the department. ~~(4-6-05)~~(____)

02. Release of Medical Information. Release of medical information requires more specific authorization according to Section 320, of these rules. (4-6-05)

03. Minimum Information. The release of information and consent form shall, at a minimum, include the following: (4-6-05)

a. Name of person, agency or organization requesting information; (4-6-05)

b. Name of person, agency or organization releasing information; (4-6-05)

c. The specific information to be disclosed; (4-6-05)

d. The date consent form is signed; (4-6-05)

e. Signature of the juvenile offender and the parent or guardian; ~~*(4-6-05)*~~(____)

f. The signature of the person witnessing the juvenile offender's signature; and ~~*(4-6-05)*~~(____)

g. Effective and expiration dates. (4-6-05)

04. Document Reproduction. The contract provider agrees that no documents provided by the department shall be reproduced or distributed without the written permission of the department. (4-6-05)

208. JUVENILE OFFENDER PHOTOGRAPHS.

01. Limitations. No juvenile offender in the custody of the department shall be used in person or by photograph or any other visual image for the express purpose of any fund raising efforts. ~~*(4-6-05)*~~(____)

02. Department Authorization. Permission to release or use the photographs and any other visual image of juvenile offenders in the custody of the department shall require written authorization from the department director or designee. ~~*(4-6-05)*~~(____)

209. CONTRACT PROVIDER ADMINISTRATIVE RECORDS.

01. Documentation Retention. The contract provider shall document and retain documentation of all information related to the following items: (4-6-05)

a. Program consultation provided at the facility, such as technical assistance on program design and implementation; (4-6-05)

b. Training provided to staff; (4-6-05)

c. All alleged instances of child abuse; (4-6-05)

d. Fiscal and program audits or reviews, including corrective actions required and taken; (4-6-05)

e. Reports of sexual abuse disclosures to Idaho Department of Health and Welfare or law enforcement~~*; and*~~, ~~*(4-6-05)*~~(____)

f. Juvenile offender ~~*or*~~ and staff grievances~~.~~; and ~~*(4-6-05)*~~(____)

g. Copies of all completed incident reports. (____)

02. Employee Files. Employee personnel files shall contain the following: (____)

a. ~~*m*~~Minimum qualifications for the job held~~,~~; (____)

b. ~~h~~Hiring information~~,~~; ( )

c. Copies of all required licenses or certificates related to the job function; ( )

d. Copies of academic credentials, driving record and criminal background checks, as required by state law; ( )

e. Current training records; and ( )

f. ~~a~~Annual performance evaluations and copies of personnel actions, such as disciplinary action taken and acknowledgements of outstanding performance. ~~(4-6-05)~~( )

210. CLOTHING AND PERSONAL ITEMS.

01. Sufficient Clothing. Juvenile offenders shall have sufficient clothing of the proper weight to participate in activities included in their service implementation plan. Juvenile offenders may arrive at the facility with their own clothing and personal items, which shall be inventoried. If the juvenile offender does not have sufficient clothing, or appropriate clothing, the contract provider shall provide or purchase adequate and appropriate clothing for the juvenile offender. Contract providers shall not request nor require that the parent or guardian pay for or purchase clothing. ~~(4-6-05)~~( )

02. Release from Facility. All clothing and incidentals become the property of the juvenile offender upon release from the facility. The contract provider will ensure the proper care and cleaning of clothing in the juvenile offender's possession. ~~(4-6-05)~~( )

03. Replacement Clothing. Clothing provided or purchased as replacement will be at the expense of the contract provider. Unique items of clothing not required for program participation may be purchased at the expense of the juvenile offender. ~~(4-6-05)~~( )

04. Clothing in Independent Living Programs. Contract provider must ensure that the juvenile offender has sufficient clothing as defined in Subsection 210.01 of these rules. The contract provider may require the juvenile offender to purchase clothing as part of the independent living program. Any requirement that the juvenile offender purchase clothing must be documented as part of the independent living program. ( )

211. FOOD SERVICE.

Juvenile offenders shall be served a varied and nutritional diet with menus approved or developed by a qualified nutritionist or dietician and which meet the recommended dietary allowances of the National Research Council or its equivalent. Juvenile offenders must be fed three (3) meals daily in accordance with the child care licensing rules of the Idaho Department of Health and Welfare. ~~(4-6-05)~~( )

212. PERSONAL FUNDS.

01. Funds Handled by a Contract Provider. The contract provider will follow accepted accounting practices in managing personal funds of juvenile offenders and in accordance

with Section 213 of these rules. ~~*(4-6-05)*~~(____)

a. A contract provider shall be required to deposit all personal funds collected for the juvenile offender in a public banking institution in an account specifically designated "Juvenile Personal Funds" and to maintain a reconciled ledger showing each juvenile offender's deposits and withdrawals within the "Juvenile Personal Funds" account. If the funds are collected in an interest bearing account, the interest accrued must be credited to the juvenile offender for whom the funds are collected. In independent living programs, the required personal account may be opened by the juvenile offender and will be maintained by him as a part of his competency development. ~~*(4-6-05)*~~(____)

b. All withdrawals by a juvenile offender, or expenditures made on behalf of a juvenile offender by the contract provider, shall be documented, signed, and dated by the juvenile offender. This documentation shall be reconciled to the juvenile offender's ledger monthly. ~~*(4-6-05)*~~(____)

c. A contract provider may limit the amount of any withdrawal. (4-6-05)

d. A contract provider shall not require juvenile offenders, parents, or guardians to pay for services and supplies ~~which~~ that are to be provided by the contract provider, such as clothing, toiletries, linen, laundry, drug screens, routine supplies, and lunch money, except where juvenile offenders are required to purchase these items as part of an independent living program. ~~*(4-6-05)*~~(____)

02. Reporting Requirements. A report shall be filed quarterly with the department's quality assurance staff as part of the report in Subsection 200.02 of these rules. The personal funds report shall show a list of all juvenile offender account balances, date of admission and, if appropriate, the date of transfer or release from department custody. The personal fund account is subject to review ~~or~~ and audit by the department or its representatives at any time. Any discrepancies in juvenile offender accounts shall be resolved within fourteen (14) calendar days of notification. ~~*(4-6-05)*~~(____)

03. Transfer of Personal Funds. When a juvenile offender is released from department custody or transferred to another program, the balance of the juvenile offender's account shall be given to or mailed to the juvenile offender within five (5) business days and documented on the Contract Provider Juvenile Check-Out Form supplied by the department. ~~*(4-6-05)*~~(____)

04. Juvenile Offenders with Earned Income. The contract provider is responsible for maintaining and accounting for any money earned by a juvenile offender. These funds are to be deposited in the personal funds account. ~~*The contract provider shall establish a written plan, as part of the service implementation plan, for the juvenile to save at least ten percent (10%) of his net earnings. The plan shall specify the purpose for which funds saved will be used at program completion, such as deposits on utilities and housing, or purchase of tools necessary for employment.*~~ Additionally, there shall be a plan for the priority use of the juvenile offender's earned income to pay court ordered restitution and a specific allocation for daily incidental expenses. ~~*(4-6-05)*~~(____)

a. The contract provider shall establish a written plan for a juvenile offender in non-independent living programs for the juvenile offender to save at least ten percent (10%) of net earnings. The plan shall specify the purpose for which the funds saved will be used at program completion, such as paying deposits on utilities and housing or the purchasing of tools necessary for employment. ( )

b. The contract provider shall establish a written plan for a juvenile offender in independent living program, as part of the service implementation plan, for the juvenile offender's use of these funds. The plan shall specify how the funds will be used as part of the independent living program. ( )

213. RESTITUTION.
A contract provider may utilize a portion of a juvenile offender's personal funds or earned income for the payment of restitution to victims or for program damages according to these rules. ~~*(4-6-05)*~~( )

01. Victim Restitution. Except for those juvenile offenders identified in Subsection 212.04 of these rules, victim and court ordered restitution shall be a claim against and paid from the juvenile offender's personal funds account in the amount of fifty percent (50%) of those funds. Should the juvenile offender have no other funds available, then a plan must be developed by the contract provider to assist the juvenile offender in earning the amount of restitution and, if appropriate, help him develop a payment plan. ~~*(4-6-05)*~~( )

02. Restitution for Damages. Restitution for damages at the program will not be paid to the exclusion of victim or court ordered restitution. The contract provider shall not access the juvenile offender's account for program damages without following the disciplinary process provided in these rules. ~~*(4-6-05)*~~( )

a. Restitution may be ordered as part of the disciplinary process when a juvenile offender has willfully damaged or destroyed property, has caused or attempted to cause injury to himself, other juvenile offenders or staff resulting in expenses being incurred, or has a pattern of falsely alleging injury or illness with the result that medical expenses are incurred. ~~*(4-6-05)*~~( )

b. "Actual Cost" restitution may be imposed when property is destroyed and when an incident results in outside medical care for staff or juvenile offenders. ~~*(4-6-05)*~~( )

c. In no instance shall a contract provider withdraw all funds in a juvenile offender's account to satisfy restitution for program damages. ~~*(4-6-05)*~~( )

03. Disciplinary Process. All juvenile offenders shall be afforded an administrative hearing in accordance with the disciplinary procedure of the contract provider and standards set forth in these rules. ~~*(4-6-05)*~~( )

214. NOTIFICATION OF DEATH OF A JUVENILE OFFENDER.
In the event of the death of a juvenile who is in the department's custody, the contract provider shall immediately notify the regional facility, juvenile offender's parent or guardian, the local coroner, and law enforcement. Other notifications will be coordinated between the contract provider and the department. ~~*(4-6-05)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

216. **PROHIBITED CONTACT AND PRISON RAPE ELIMINATION ACT COMPLIANCE (PREA)**.

01. **Sexual Misconduct**. The contract provider, in accordance with the PREA, shall have written policy and procedures that promote zero tolerance of sexual activity among juvenile offenders or between juvenile offenders and staff or volunteers, regardless of consensual status. The policy and procedures shall contain, at a minimum, the following provisions: ( )

a. The contract provider shall inform juvenile offenders of the means available to safely report rape and sexual activity and shall document this notice to juvenile offenders; ( )

b. The contract provider shall provide two (2) or more avenues for a juvenile offender to report rape and sexual activity; ( )

c. The contract provider shall have a process that requires reporting and documentation of any instance of sexual misconduct among juvenile offenders or between juvenile offenders and staff or volunteers, according to Subsection 262.02 of these rules; ( )

d. The contract provider staff shall treat all information regarding sexual misconduct with confidentiality; ( )

e. The contract provider shall have a process in place for an initial internal investigation when sexual misconduct is reported; ( )

f. The contract provider shall separate the accused from the juvenile offender, who was the subject of alleged sexual misconduct, until the investigation is complete; ( )

g. The contract provider shall document any and all steps taken to ensure the juvenile offender's safety; ( )

h. Contract provider shall report alleged, sexual misconduct to law enforcement for external investigation when sexual misconduct is suspected; ( )

i. Contract provider shall report all sexual misconduct to appropriate licensing authority when sexual misconduct is suspected; and ( )

j. The contract provider shall provide, at a minimum, one (1) hour of annual training for staff and juveniles concerning the zero tolerance for, detection of, and response to sexual misconduct with a juvenile offender, including criminal prosecution. ( )

02. **Reporting of Sexual Misconduct**. Acts of sexual misconduct shall be reported to the department on the form provided by the department. ( )

03. Survey on Sexual Violence. If the contract provider is identified to receive the yearly "Survey on Sexual Violence" from the Bureau of Justice Statistics, the contract provider shall complete and submit the survey and supply the department with copies. (____)

21~~6~~7. -- 219. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

221. STAFF QUALIFICATIONS.

01. Licenses. All individuals providing services to juveniles in the custody of the department must possess all licenses or certifications for their particular position as required by statute, rule, or by the Idaho Department of Health and Welfare, as applicable. (4-6-05)

02. Education or Experience. All individuals providing services must be qualified to do so on the basis of knowledge, skills, and abilities. In addition, certain program and professional caregivers must meet specific minimum standards for education or experience. These standards shall constitute, in part, the basis for determining the adequacy of program and professional services delivered under contractual agreement with the department. (4-6-05)

03. Position Descriptions. Contract providers shall maintain written position descriptions for every job class established in the organization. In all cases, minimum qualifications for professional level staff must meet licensure and certification requirements. In all cases, the particular job titles used by the contract provider to provide counseling, therapy, direct care, and supervision of juvenile offenders, as well as staff supervision and management, must be specifically cross-referenced with the job titles in these rules. ~~*(4-6-05)*~~(____)

222. POSITION DESCRIPTIONS AND QUALIFICATION CRITERIA.

01. Clinician, Counselor, or Therapist. An individual who conducts a comprehensive assessment of the psychological, behavioral, social, or familial deficits or dysfunctions presented by the juvenile offender, then establishes and implements a plan for therapeutic services. The plan must specify diagnosis and treatment of problems to be addressed, an estimate of the time needed, and a schedule of the frequency and intensity of the services to be provided. The individual may also provide individual, group, or family counseling. At a minimum, the individual must have a master's degree and be currently licensed by the state of Idaho as a Licensed Professional Counselor (LPC), Licensed Marriage and Family Counselor (LMFT), Licensed Master Social Worker (LMSW), or certified school psychologist.
~~*(4-6-05)*~~(____)

02. Juvenile Services Coordinator or Social Worker. An individual who is responsible for the assessment of treatment progress, and the provision and monitoring of therapeutic or rehabilitative treatment services to juvenile offenders participating in a treatment program. Individuals providing this function must possess at a minimum, a bachelor's degree

from a fully accredited college or university in social work, psychology, or counseling and must be licensed as a social worker in the state of Idaho. ~~*(4-6-05)*~~(____)

03. Recreational Specialist. An individual who develops and implements an individualized and goal-directed recreational plan for a juvenile offender in connection with his overall service implementation plan. The individual providing this function must possess a bachelor's degree in recreational therapy, health and physical education, or a related field, or have a high school diploma and two (2) years related experience in providing recreational services to juvenile offenders. ~~*(4-6-05)*~~(____)

04. Rehabilitation Specialist or Case Manager. An individual, under direct supervision, who assists the juvenile offender in implementing his service implementation plan, evaluat~~ing~~es the juvenile offender, and maintain~~ings~~ his case record with respect to all nonclinical matters. The rehabilitation specialist or case manager also assists in presenting the case in staffing, communicates with appropriate individuals, including community interests, regarding the juvenile offender, and prepares written communications, under supervision, including discharge reports. The rehabilitation specialist or case manager may also serve as the social worker if properly licensed in the state of Idaho. Individuals providing this function must possess, at a minimum, a bachelor's degree from a fully accredited college or university in the social sciences or a related field. ~~*(4-6-05)*~~(____)

05. Rehabilitation Technician or Direct Care Worker. An individual who is responsible for providing individual or group rehabilitative therapeutic services, supervising juvenile offenders' day-to-day living activities and performing such duties as preparing nutritious meals, supervising and training juvenile offenders in basic living skills, and providing some community transportation. Such individual must have a high school diploma or its equivalent. ~~*(4-6-05)*~~(____)

06. Special Education Teacher. An individual who provides a modified curriculum for those students who are eligible for services under the ~~*Individuals with Disabilities Education Act*~~ IDEA. This individual must hold a valid ~~*teaching certificate, allowing him to teach students with educational disabilities, in the state where the services are being provided*~~ standard exceptional child certificate with an endorsement as a generalist. ~~*(4-6-05)*~~(____)

07. Teacher. An individual who provides basic educational services as required by state and federal statutes. This individual must hold a valid teaching ~~*certificate in the state where the services are being provided and*~~ credential in the appropriate instructional field. ~~*(4-6-05)*~~(____)

223. PROGRAM STAFFING REQUIREMENTS.

01. General Staffing Ratios. The contract provider shall ensure that an adequate number of qualified staff are present at all times to provide rehabilitation and treatment services, supervise juvenile offenders, and provide for their health, safety and treatment needs. Staffing patterns shall ensure that professional staff ~~*are*~~ is available to juvenile offenders at times when they are in the program or facility. The contract provider staff should provide consistency and stability so that the juvenile offenders know the roles of each staff member. Specific staffing ratios shall be determined in each contract and shall be based on the level of intervention of the program

and the risk level of the juvenile offender population. ~~(4-6-05)~~(____)

02. Emergency Staffing Ratios. At all times at least one (1) staff member on duty per twenty (20) juvenile offenders in residence must be currently certified to administer first aid and cardiopulmonary resuscitation (CPR). ~~(4-6-05)~~(____)

224. GENERAL REQUIREMENTS FOR TRAINING.

01. Training Plan. Training for staff and volunteers shall be conducted in accordance with a written plan approved by management and coordinated by a designated staff member. The training plan shall include: (4-6-05)

a. Annual in-service training for all staff; (4-6-05)

b. Those areas requiring current certification; (4-6-05)

c. Prior to being assigned sole responsibility for supervision of juvenile offenders, rehabilitation technicians or direct care staff shall have training in the following areas: ~~(4-6-05)~~(____)

i. Principles and practices of juvenile care and supervision; (4-6-05)

ii. Program goals and objectives; (4-6-05)

iii. Juvenile offender rights and grievance procedures; ~~(4-6-05)~~(____)

iv. Procedures and legal requirements concerning the reporting of abuse and critical incidents and compliance with the PREA; ~~(4-6-05)~~(____)

v. Handling of violent juvenile offenders (use of force or crisis intervention); ~~(4-6-05)~~(____)

vi. Security procedures (key control, searches, contraband); (4-6-05)

vii. Medical emergency procedures, first aid, and CPR; (4-6-05)

viii. Incident reporting; (4-6-05)

ix. How to recognize and respond to suicidal behavior; (4-6-05)

x. How to access emergency health and mental health care; (4-6-05)

xi. Proper storage and dispensing of medications, as well as general signs and symptoms of adverse reactions, including identification of the individual who will dispense medications in the facility; (4-6-05)

xii. Appropriate response to health-related emergencies; (4-6-05)

xiii. Training to meet the requirements of federal educational regulations; and (4-6-05)

xiv. Training on the appropriate and safe transportation of all juvenile offenders. ~~(4-6-05)~~(____)

d. In-service training for all first-year staff shall include: (4-6-05)

i. Program policies and procedures; (4-6-05)

ii. Job responsibilities; (4-6-05)

iii. Juvenile offender supervision; ~~(4-6-05)~~(____)

iv. Safety and security emergency procedures (fire, disaster, etc.); (4-6-05)

v. Confidentiality issues; (4-6-05)

vi. Juvenile offender rights and grievance procedures; ~~(4-6-05)~~(____)

vii. Communicable diseases, bloodborne pathogens, and universal precautions; (4-6-05)

viii. Behavioral observation, adolescent psychology and child growth and development; (4-6-05)

ix. Effective interventions with juvenile offenders including criminogenic risk and need factors; (____)

~~i~~x. Juvenile Corrections Act, balanced and restorative justice, and department rules for contract providers; (4-6-05)

xi. Basic security procedures; (4-6-05)

xii. Signs and symptoms of chemical use or dependency; (4-6-05)

xiii. Drug-free workplace; and (4-6-05)

x~~ii~~iv. Diversity training to include cultural awareness. (4-6-05)

02. Minimum Mandatory Staff Training Requirements. Good professional practice in the area of juvenile offender treatment requires staff to be competently trained. Therefore, all staff ~~are~~ is required to have: ~~(4-6-05)~~(____)

a. Eighty (80) hours of training for all staff during first year of employment. Up to twenty-five percent (25%) of the eighty (80) hours may be fulfilled by working with an experienced staff mentor, who must verify and document basic competencies for new staff; and (4-6-05)

b. Forty (40) hours of training per year following the first year of employment. (4-6-05)

03. Trainer Qualifications. (4-6-05)

a. Individuals who provide instruction in areas of life, health, and safety, including but not limited to, first aid, CPR, physical intervention techniques, shall have appropriate certification which must be documented in their personnel or training file. (4-6-05)

b. Individuals who provide instruction in treatment shall have appropriate training, education, and experience which must be documented in their personnel or training file. (4-6-05)

04. Documentation of Training. Staff training records shall be kept by a designated staff person. Separate training records shall be established for each staff member and volunteer and shall include: (4-6-05)

a. Name; (4-6-05)

b. Job title; (4-6-05)

c. Employment beginning date; (4-6-05)

d. Annual training hours required; and (4-6-05)

e. A current chronological listing of all training completed. (4-6-05)

05. Training Records. Training records may be kept separately within each individual personnel file or in a separate training file. Copies of curriculum materials must be maintained. (4-6-05)

225. VOLUNTEERS.
Programs should consider soliciting the involvement of volunteers to enhance and expand their services. However, volunteers recruited to supplement and enrich a program, may not be substituted for the activities and functions of facility staff. Volunteers shall not be assigned sole supervision of juvenile offenders. ~~*(4-6-05)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

227. INTERNS.
Programs should consider involving interns to enhance and expand their services. However, interns recruited to supplement and enrich a program, may not be substituted for the activities and functions of facility staff. Interns shall not be assigned sole supervision of juvenile offenders. ~~*(4-6-05)*~~( )

01. Written Plan. Programs that utilize interns regularly shall have a written plan that

includes stipulations for their use and training. Training provided must include all of the information necessary for the interns to successfully perform their roles within the program. (4-6-05)

02. Intern Requirements. (4-6-05)

a. Interns must be documented to be enrolled in an accredited school or program for the profession, must be at least twenty-one (21) years of age, of good character, and sufficiently mature to handle the responsibilities involved in the position; (4-6-05)

b. Interns must have a fully developed internship or practicum agreement which details their activities for the period, and relates these to learning objectives developed with the academic institution and program in which they are enrolled. The internship agreement must include the signatures of the intern, supervising contract provider staff, and a representative of the academic institution in which the intern is enrolled. (4-6-05)

c. Interns must agree in writing to abide by all policies and standards of conduct, and must agree to meet the ethical standards for the profession for which they are training; (4-6-05)

d. Interns who perform professional services must be licensed or certified as required by state law or rule, or must be documented to be supervised directly by staff meeting those credentials; (4-6-05)

e. Interns must agree to background and criminal record checks as prescribed by state law. (4-6-05)

03. Supervision. An intern will be supervised by a paid employee of the contract provider who has the licenses and credentials required by state law and who has been accepted by the intern's school as an appropriate supervisor for the discipline of instruction. This individual shall coordinate and direct the activities of the intern. Intern performance shall be evaluated periodically and evidence of this evaluation made part of the work record of the intern. (4-6-05)

04. Documentation. Contract provider shall maintain individual personnel files for each intern working in the program. The files shall contain all documentation as described in Subsection 227.02 of these rules. (4-6-05)

05. Termination. There will be a procedure established for the termination of interns when substantial reasons for doing so exist. (4-6-05)

228. CRIMINAL BACKGROUND CHECKS.

All contract providers providing services to the department shall ensure that all employees, interns, and volunteers, as required by law, have undergone a criminal background check in the manner and form required by IDAPA 16.05.06, "~~Rules Governing Mandatory~~ Criminal History Checks and Background Checks." In addition to the crimes listed resulting in unconditional denial, any crime not specified there that requires registration on the sex offender registry in Idaho or any other state, will also result in an unconditional denial of employment for direct care or services, or where the employee would have any opportunity to have contact with a juvenile~~s~~ offender in the contract provider's care. Documentation of appropriate requests and responses

shall be kept in confidential employee personnel files. ~~*(4-6-05)*~~(____)

229. DRIVERS.
All drivers of vehicles transporting a juvenile~~s~~ offender must possess a valid Idaho driver's license and the proper licenses required by state law for the type of motor vehicle operated. All such operators' driving records must be checked through the Department of Motor Vehicles for the preceding three (3) years and annually after date of hire. During that time, the operator must not have had any felony traffic convictions or withheld judgments. Any incidents of suspended licenses during that time must be specifically reviewed by the contract provider. Personnel files must contain evidence of training to transport a juvenile~~s~~ offender as well as other appropriate documentation. When parents, guardians, or others are allowed to transport a juvenile~~s~~ offender for any reason, it is the responsibility of the contract provider to ensure that the individual holds a current and valid driver's license. ~~*(4-6-05)*~~(____)

230. -- 239. (RESERVED).

240. JUVENILE~~'S~~ OFFENDER RIGHTS AND RESPONSIBILITIES.

01. Contract Provider Obligations. The contract provider must observe, and not infringe upon, the rights of each juvenile offender in its facility or program. The contract provider shall also be responsible for understanding the rights and responsibilities of juveniles in custody, and knowing which rights have been forfeited as a result of being placed in custody. ~~*(4-6-05)*~~(____)

02. Religious Services and Special Needs. Each juvenile offender and his family will be advised in writing of the obligation of the contract provider to allow access to appropriate religious services, and to make reasonable accommodations for any disabilities, language barriers, or other special needs. A signed copy of this notice shall be placed in the juvenile offender's file. ~~*(4-6-05)*~~(____)

03. Juvenile~~s'~~ Offender Program Responsibilities. The contract provider shall inform each juvenile offender, upon admission to its program, of his responsibilities during the program. Additionally, each juvenile offender shall have an understanding of the following program expectations: ~~*(4-6-05)*~~(____)

a. Requirements needed to complete program; (4-6-05)

b. How to access medical services; (4-6-05)

c. How to file a grievance; ~~*and*~~ ~~*(4-6-05)*~~(____)

d. How to report incidents of sexual misconduct between juvenile offenders or between staff and juvenile offenders; and (____)

~~d~~**e.** How to contact his juvenile services coordinator and juvenile probation officer. (4-6-05)

241. DISCIPLINE OF JUVENILE OFFENDERS.

01. Written Policies and Procedures. All providers offering treatment services shall have comprehensive written discipline policies and procedures, which shall be explained to all juvenile offenders, families, and staff. These policies shall include positive responses for appropriate behavior. They shall include a provision for notice to the juvenile offender being disciplined, a mechanism for a fair and impartial hearing by a disciplinary board, and a process for appeal. ~~*(4-6-05)*~~(____)

02. Problem Resolution. Disciplinary actions are not the same as the consequences that are spelled out as a part of a service implementation plan for the juvenile offender. A contract provider shall make every effort to resolve problems with the least amount of formal disciplinary activity possible. Efforts should be made first to instruct and counsel the juvenile offender. Any restriction of a juvenile offender's participation in a program resulting from a formal disciplinary action must be reported in an incident report. ~~*(4-6-05)*~~(____)

242. FORMAL DISCIPLINARY PROCESS.

01. Prior to and upon Initiating a Formal Disciplinary Action. Prior to and upon initiating a disciplinary action, careful attention should be given to the program rules to determine the seriousness of the misbehavior and the appropriate type of discipline. (4-6-05)

02. Control of Juvenile Offenders. Staff will make every effort to maintain control of juvenile offenders through positive methods. ~~*(4-6-05)*~~(____)

03. Discipline. Discipline will be administered in a way to create a learning experience for the juvenile offender, and never in a way that degrades or humiliates a juvenile offender. ~~*(4-6-05)*~~(____)

04. Other Juvenile Offenders. No juvenile offender shall supervise nor carry out disciplinary actions over another juvenile offender. ~~*(4-6-05)*~~(____)

05. Prohibited Actions. The contract provider is prohibited from using certain actions as disciplinary responses as listed in the child care licensing rules of the Idaho Department of Health and Welfare. (4-6-05)

06. Denial of Services. Denial of the following are prohibited as disciplinary responses: (4-6-05)

a. Educational and vocational services; (4-6-05)

b. Employment; (4-6-05)

c. Health or mental health services; (4-6-05)

d. Access to family, juvenile probation officer, and legal counsel; and (4-6-05)

e. Religious services. (4-6-05)

243. APPEAL OF FORMAL DISCIPLINARY PENALTIES.
Each contract provider shall have a formal written process through which a juvenile offender can appeal a disciplinary action and receive a review of his case. The contract provider shall explain to the juvenile offender how to use the appeal process. The juvenile offender must be informed that in any event he may include his juvenile services coordinator in the disciplinary process.
~~*(4-6-05)*~~(____)

244. ROOM RESTRICTIONS.
The contract provider shall have written policies and procedures regulating the use of the juvenile offender's room for "room restriction." The policy shall ensure that there are procedures for recording each incident involving the use of restriction. The reason for the room restriction shall be explained to the juvenile offender and he shall have an opportunity to explain the behavior. Other less restrictive measures must have been applied prior to the room restrictions. A ~~J~~juvenile~~s~~ offender in room restriction shall have access to the bathroom. Staff shall check on a juvenile offender in room restriction a minimum of once every fifteen (15) minutes. Room restriction may only be used in an unlocked area. Room restriction shall not exceed a total of eight (8) hours within a twenty-four (24) hour period. Contract providers must ensure that a juvenile~~s~~ offender with a history of depression or suicidal ideation and those who have exhibited these behaviors while in care, are checked at least every five (5) minutes in order to ensure ~~their~~ his safety. ~~*Additionally,*~~ Even more frequent or constant observation must be maintained if any level of suicide ~~*precaution is initiated, constant observation must be maintained*~~ risk is determined to be present at any time during room restriction. All items in the area that might be used to attempt self-harm should be restricted or removed. ~~*(4-6-05)*~~(____)

245. BATTERY ON STAFF.
All instances of battery committed on staff shall be documented and, whenever appropriate, charges filed with the appropriate authorities. Each such incident shall be reported to the juvenile offender's juvenile services coordinator as an incident report according to Subsection 262.02 of these rules. ~~*(4-6-05)*~~(____)

246. GRIEVANCE PROCEDURES.

01. Written Procedures. Each program shall have a written grievance procedure for juvenile offenders, which includes the right to appeal disciplinary actions against them if a separate disciplinary grievance procedure is not available. It shall be written in a clear and simple manner and shall allow juvenile offenders to make complaints without fear of retaliation.
~~*(4-6-05)*~~(____)

02. Grievance Forms. The grievance procedure shall be explained to the juvenile offender by a staff member who shall enter a note into the juvenile offender's file confirming the explanation. Grievance forms shall be in a location accessible to juvenile offenders without having to request such a form from staff. Completed forms should be placed in a secure area until collected and processed weekly. A copy of the grievance and the resolution of that grievance must be attached to the quarterly report as specified in Subsection 200.02 of these rules.
~~*(4-6-05)*~~(____)

247. LETTERS.

01. Restrictions. Juvenile offenders shall be allowed to send and receive letters from approved persons, which may include persons in other programs or institutions, unless specifically prohibited by the department or by court order. All other restrictions of mail must be discussed with the community treatment team, approved in writing by the juvenile services coordinator, and documented in the juvenile offender's service implementation plan. There shall be no general restrictions on the number of letters written, the length of any letter, or the language in which a letter may be written. However, juvenile offenders will be provided with sufficient stationery, envelopes, and postage for all legal and official correspondence, and for at least two (2) personal letters each week. ~~*(4-6-05)*~~(____)

02. Inspection of Outgoing Letters. (4-6-05)

a. Outgoing letters are to be posted unsealed and inspected for contraband. (4-6-05)

b. Exception: Outgoing "privileged" mail may be posted, sealed and may not be opened, except with a search warrant, as long as it can be confirmed to be to an identifiable source. For purposes of this rule, "an identifiable source" means that the official or legal capacity of the addressee is listed on the envelope and that the name, official or legal capacity, and address of the addressee ~~*has*~~ have been verified. Possible identifiable sources are the following: ~~*(4-6-05)*~~(____)

i. Court(s); (4-6-05)

ii. Attorney(s); (4-6-05)

iii. Juvenile services coordinator, or director of the Idaho Department of Juvenile Corrections; (4-6-05)

iv. Other state and federal departments, agencies and their officials; and (4-6-05)

v. Members of the press. (4-6-05)

c. Upon the determination that the mail is not identifiable as privileged mail, said mail shall be opened and inspected for contraband. (4-6-05)

03. Inspection of Incoming Letters. All incoming letters must be opened by the juvenile offender to whom it is addressed and may be inspected for contraband by staff and only in the juvenile offender's presence. ~~*(4-6-05)*~~(____)

04. Reading of Letters. Routine reading of letters by staff is prohibited. The department or court may determine that reading of a juvenile offender's mail is in the best interest of the juvenile offender, and is necessary to maintain security, order or program integrity. However, such reading of mail must be documented and unless court ordered, must be specifically justified and approved by the juvenile services coordinator. Under no circumstances shall a juvenile offender's privileged mail be read. ~~*(4-6-05)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

249. PUBLICATIONS.
Books, magazines, newspapers and printed matter which may be legally sent to juvenile offenders through the postal system shall be approved, unless deemed to constitute a threat to the security, integrity, or order of the programs. Juvenile offenders will not be allowed to enter into subscription agreements while in department custody. ~~(4-6-05)~~(____)

250. DISTRIBUTION OF MAIL.
The collection and distribution of mail is never to be delegated to a juvenile offender. Staff shall deliver mail within twenty-four (24) hours, excluding weekends and holidays, to the juvenile offender to whom it is addressed. ~~(4-6-05)~~(____)

251. VISITATION.
The contract provider shall develop written rules governing visiting at the facility and shall provide a copy to each juvenile offender, his parent or guardian, and the juvenile services coordinator. Visitation policy must include specific restrictions on those under the influence of alcohol or drugs. In all cases, the contract provider will work with the juvenile services coordinator and juvenile probation officer to identify and approve potential visitors in accordance with the contract provider's criteria. The contract provider is responsible for developing and implementing policy concerning visitation which protects the safety of visitors, staff, and juvenile offenders. This may restrict visitation below an established age or provide for higher levels of supervision in circumstances where safety may be at risk. ~~(4-6-05)~~(____)

252. PERSONAL SAFETY.

01. Responsibility. Every juvenile offender has the fundamental right to feel safe. Contract providers have the responsibility to ensure that a juvenile~~s are~~ offender is safe while in their care. Every juvenile offender shall be informed of procedures whereby a professional staff person can be contacted on a twenty-four (24) hour basis if the juvenile offender does not feel safe. ~~(4-6-05)~~(____)

02. Periodic Contacts. The contract provider's managers should make periodic contact with juvenile offenders in the program to determine if they feel safe and are comfortable when interacting with peers and staff. ~~(4-6-05)~~(____)

253. SMOKING AND SALE OF CIGARETTES.

01. Purchase or Use. Juveniles in department custody, regardless of age, are strictly prohibited from purchasing or using tobacco products. (4-6-05)

02. Written Policies. Every contract provider shall establish written policies and procedures banning the use of cigarettes and other tobacco products by juvenile offenders at the facility. ~~(4-6-05)~~(____)

254. RESEARCH.

01. Written Policies. Residential and nonresidential programs shall have written policies regarding the participation of juvenile offenders in research projects. Policies shall prohibit participation in medical or pharmaceutical testing for experimental or research purposes. ~~(4-6-05)~~(____)

02. Voluntary Participation. Policies shall govern voluntary participation in nonmedical and nonpharmaceutical research programs. However, juvenile offenders shall not participate in any research program without prior written approval from the director or designee. ~~(4-6-05)~~(____)

255. -- 259. (RESERVED).

260. PROGRAMMING.

01. Basic Program Requirements. Contract providers offering residential and nonresidential programs for juvenile offenders must provide opportunities and services for juvenile offenders to improve their educational and vocational competence, to effectively address underlying behavior problems, and to prepare them for responsible lives in the community. Programs provided must be research-based, gender equitable, gender specific, and culturally competent. The ultimate treatment goal for juvenile offenders involved in these programs is the successful return of ~~the~~ juvenile offenders to the community without committing further crimes. ~~(4-6-05)~~(____)

02. General Requirements. (4-6-05)

a. Contract providers must provide a range of program services specifically designed to address the characteristics of the target population identified in the comprehensive program description and in the admission policy. (4-6-05)

b. Programs that serve a special needs population, such as developmentally delayed or seriously emotionally disturbed juvenile offenders, and those programs serving sexually abusive juvenile offenders, must be able to demonstrate that the program services offered are supported by research. ~~(4-6-05)~~(____)

c. Programs serving female juvenile offenders must be able to demonstrate that the services provided include elements of a program specific to the unique situations and circumstances facing female juvenile offenders. These elements must be clearly identified and described within the program description. ~~(4-6-05)~~(____)

d. Programs designed to serve juvenile offenders with gang involvement must be able to demonstrate that the services provided include elements of a program specifically designed to address gang involvement. These elements must be clearly identified and described within the program description. (____)

~~**d**~~**e.** Program services for individual juvenile offenders must be designed based upon a documented assessment of strengths, as well as needs and risks, and must target those behaviors or circumstances which have contributed to the juvenile's delinquency and which can reasonably be changed (criminogenic needs). These services must be clearly identified and described within

the program description. ~~(4-6-05)~~(____)

~~e~~**f.** Professional level services offered as a part of the program must be provided by staff meeting the requirements set forth in Sections 220 through 222, of these rules. (4-6-05)

~~f~~**g.** Progress made by individual juvenile offenders in each service area, that is a portion of the service implementation plan, must be documented in at least monthly progress notes and reported in written progress reports at least every two (2) months. ~~(4-6-05)~~(____)

~~g~~**h.** Programs that contract with the department to serve juvenile offenders and their families must: ~~(4-6-05)~~(____)

i. Provide humane, disciplined care and supervision; (4-6-05)

ii. Provide opportunities for juvenile offenders' development of competency and life skills; ~~(4-6-05)~~(____)

iii. Hold juvenile offenders accountable for their delinquent behavior through means such as victim-offender mediation, restitution, and community service; ~~(4-6-05)~~(____)

iv. Seek to involve juvenile offenders' families in treatment, unless otherwise indicated for the safety and benefit of the juvenile offenders or other family members; ~~(4-6-05)~~(____)

v. Address the principles of accountability to victims and to the community, competency development, and community protection in case planning and reporting; (4-6-05)

vi. Participate fully with the department and the community treatment team in developing and implementing service plans for juvenile offenders they serve; ~~(4-6-05)~~(____)

vii. Provide juvenile offenders with educational services based upon their documented needs and abilities; and ~~(4-6-05)~~(____)

viii. To the fullest extent possible, provide balance in addressing the interests of the victim, community, and the juvenile offender. ~~(4-6-05)~~(____)

~~h~~**i.** Reintegration services include all aspects of case planning and service delivery designed to facilitate successful return of the juvenile offender to the community. All juveniles committed to the department shall have a written reintegration plan developed as a part of their service implementation plan. ~~(4-6-05)~~(____)

03. Comprehensive and Current Program Description. Contract providers must provide, and keep current with the department, a program description detailing the range of services to be provided and the methods for providing these services. The current program description will be attached to the contract. At a minimum, this program description must include: (4-6-05)

a. Target population and specific admission criteria; (4-6-05)

b. Primary and secondary treatment modalities; (4-6-05)

c. Outline of daily schedules for juvenile offenders and staff; ~~*(4-6-05)*~~(____)

d. ~~*Plans for providing*~~ Description of educational services provided, including full compliance with all applicable federal and state law and rules for special education and Title I services; ~~*(4-6-05)*~~(____)

e. ~~*Plans for providing*~~ Description of emergency and routine health and mental health services, including psychotropic medication monitoring, unless this population is specifically excluded from admission to the program; ~~*(4-6-05)*~~(____)

f. ~~*Plans for providing*~~ Description of religious services, recreation services, and other specialized services provided as indicated by the needs of the identified target population; ~~*(4-6-05)*~~(____)

g. Plans for the use of volunteers to provide for support elements of the program; (4-6-05)

h. Written criteria for successful completion of the program and written criteria for termination from the program prior to completion; (4-6-05)

i. A thorough description of all services offered as a part of the program, including a description of the frequency of service delivery, and accounting for the costs of all services provided by consultants and subcontractors; (4-6-05)

j. A detailed description of each individual treatment intervention or service area provided, such as treatment group, psycho-educational group, cognitive restructuring group, and peer group including: (____)

i. The total length of the specific treatment intervention or service area; (____)

ii. The overall goals of the treatment intervention or service area; (____)

iii. The number of sessions in the treatment intervention or service area; (____)

iv. The average length of each session; (____)

v. The facilitator education and training requirements; (____)

vi. The specific curriculum used in the treatment intervention or service area; and (____)

vii. The number of hours per week an individual juvenile offender will participate in the treatment intervention or service area. (____)

~~*j*~~**k.** A detailed description of the behavior management component of the program;

and (4-6-05)

~~k~~**l.** A copy of any memoranda of understanding with the local educational ~~*authority*~~ agency for providing educational services. ~~*(4-6-05)*~~( )

04. Advance Notice of Program or Population Changes. Contract providers shall notify the department as soon as possible, but no later than thirty (30) calendar days, before there is a change in the name of the organization, type of service, characteristics of juveniles being served, changes in the licensed capacity of the facility, closure of the facility, changes in ownership or in the organizational structure. (4-6-05)

261. PROGRAM POLICY REQUIREMENTS.

01. Written Policies. Programs must have, at a minimum, the following written policies concerning program operations available at the program site. (4-6-05)

a. Program elements and implementation. (4-6-05)

b. Admission policy describing the target population and criteria for admission, and identifying sources of referrals to the program. (4-6-05)

c. Criteria for assigning juvenile offenders to different units within the program, if applicable. ~~*(4-6-05)*~~( )

d. The provision of (or referral for) emergency and routine health and mental health services for the population. (4-6-05)

e. The prevention and monitoring of suicidal behavior. The policy at a minimum shall require that: (4-6-05)

i. A suicide risk screening be completed within no more than two (2) hours of a juvenile offender's admission into a facility. The screening is done to identify an immediate threat of suicide or self-harm and the need for a suicide risk assessment. Further, the screening is a system of structured and documented observation, interview and review of behavioral, medical, and mental health information. ~~*(4-6-05)*~~( )

ii. A suicide risk assessment, if appropriate, be completed by a mental health professional for the purpose of determining the level of immediate risk of a juvenile offender attempting suicide. A suicide risk assessment is a system of structured and documented observation, interview and review of behavioral and mental health information. It comprises a thorough review of recent behavioral and mental health information, interviews of staff and the juvenile offender concerning the behavior that seems to present the threat of self-harm or suicide and the development and dissemination of a safety plan to address the risk as it is determined to exist. A suicide risk assessment typically involves an assessment of the juvenile offender's determination to act on his intentions of self-harm, a determination of the depth of his planning for making the attempt, the availability of the items or situations necessary for him to act on that plan and the lethality of the plan as expressed. Reassessment of suicide risk is made at a time determined by the mental health professional completing the assessment and is ideally completed

by that same mental health professional. ~~*(4-6-05)*~~(____)

f. Behavior management within the program, including use of points and levels, restraints, separation, detention and other types of special management. (4-6-05)

g. Supervision of juvenile offenders~~. *This*~~ policy shall include managing juvenile offender movement within the program, including the timely transfer of behavioral information about juvenile offenders from staff at shift change. ~~*(4-6-05)*~~(____)

h. Juvenile offenders' access to the community~~. *This*~~ policy shall include use of community schools or job sites, and individual or group activities away from the program site. For residential programs, this also includes ~~*day or home*~~ individual community passes. ~~*(4-6-05)*~~(____)

i. Provision of educational and vocational services. (4-6-05)

j. Administrative coverage in emergency situations, after regular work hours (residential only). (4-6-05)

k. Documentation and reporting of critical incidents to program administrators, the department and others on the community treatment team. (4-6-05)

l. Treatment planning and progress reporting to the department, juvenile offender, family and others on the community treatment team. ~~*(4-6-05)*~~(____)

m. Reintegration~~. *The*~~ policy shall describe criteria for successful completion of program, termination from program prior to completion, and the involvement of the department and community treatment team. ~~*(4-6-05)*~~(____)

n. Grievances. (4-6-05)

o. Visitation. (4-6-05)

p. Correspondence, including telephone and mail. (4-6-05)

q. Emergency procedures in the event of a natural disaster. (4-6-05)

r. Searches of staff and visitors. (4-6-05)

s. Contract providers shall have written policie and procedures prohibiting the sexual contact by any employee with a juvenile offender. (____)

t. Contract providers, in accordance with the PREA, shall have written policie and procedures that promote zero tolerance toward sexual misconduct with or among juvenile offenders in their care and zero tolerance toward the sexual assault of juvenile offenders by staff or by other juvenile offenders. (____)

02. Documented Staff Training. Documented staff training on these policies must

also be available for review by the department. (4-6-05)

262. PROGRAM OPERATIONAL REQUIREMENTS AND CASE MANAGEMENT.

01. General Requirements. (4-6-05)

a. Programs should provide vigorous programming that minimizes periods of idle time, addresses behavioral problems of juvenile offenders, and teaches and promotes healthy life choices. Programs should specifically address those factors in juvenile offenders' lives that contribute to delinquency and that can be realistically changed. ~~*(4-6-05)*~~( )

b. Programs must be open to the community by encouraging appropriate telephone and mail contact between juvenile offenders and their families, by encouraging visitation, and by involving volunteers in support of the program. ~~*(4-6-05)*~~( )

c. Contract providers must structure and document services offered in the program so that continuity in case planning is obvious. Health, mental health, substance abuse, social skills, educational, vocational, independent living, and other special needs identified in the assessment must be clearly addressed in the service implementation plan. Services provided to address those needs must be documented regularly. Progress on goals associated with those needs must be recorded in progress notes in a case file at least monthly and in a written progress report at least every two (2) months. Service needs remaining at the time of release from department custody or transfer must be accounted for in the reintegration plan for each juvenile offender. ~~*(4-6-05)*~~( )

d. Without authorization from the Idaho Department of Health and Welfare and the department, a residential care contract provider shall not admit more juveniles into care than the number specified on the provider's license. Contract providers wishing to increase capacity are responsible for contacting the Idaho Department of Health and Welfare. A copy of the written confirmation to the contract provider from the Idaho Department of Health and Welfare for verbal approval to exceed the licensed capacity shall be forwarded to the department's clinical supervisor in the region and to the department's quality assurance staff. (4-6-05)

e. Programs may not, under any circumstances, involve juvenile offenders in plethysmographic assessments. The use of polygraphs for juvenile offenders adjudicated for or documented to have demonstrated sexually abusive behavior, shall only be undertaken by court order or with the specific written authorization of the department's regional clinical supervisor, and then only with the full, informed consent of the juvenile offender, and if he is a minor, his parent or guardian. Contract providers shall not make treatment decisions solely on the results of a polygraph. Polygraphers used in this process must be able to provide documentation of specific training in the use of polygraphy with sexually abusive juvenile offenders. ~~*(4-6-05)*~~( )

02. ~~*Reporting*~~ Incidents Requiring Immediate Notice. Contract providers must ensure that a detailed, written incident report is completed and signed by involved staff before the end of the shift during which the incident took place. ~~*(4-6-05)*~~

~~*a.*~~ If any of the following events occur, the contract provider must immediately notify the juvenile offender's parent or guardian, juvenile services coordinator, juvenile probation officer, and the department's regional state facility by telephone (not by facsimile). A written

incident report shall also be transmitted within twenty-four (24) hours to the juvenile offender's parent or guardian, juvenile services coordinator, and the juvenile probation officer, unless notification to the juvenile offender's parent or guardian would endanger the juvenile. Transmission may be electronic or by facsimile. ~~(4-6-05)~~(____)

~~*i*~~**a.** Health and mental health emergencies, including but not limited to, every instance of emergency room access; (4-6-05)

~~*ii*~~**b.** Major incidents such as death of a juvenile offender, suicide, attempted suicide or threat of suicide, attempted escape, sexual misconduct among juvenile offenders or by staff, criminal activity resulting in arrest or filing a report with local law enforcement, or any relevant report made to the Idaho Department of Health and Welfare; ~~(4-6-05)~~(____)

~~*iii*~~**c.** Any incident of restraint which involves the use of medications, chemicals, or mechanical devices of any kind; (4-6-05)

~~*iv*~~**d.** Any use of separation or isolation for more than two (2) hours; (4-6-05)

~~*v*~~**e.** Incidents of alleged or suspected abuse or neglect of juvenile offenders; and ~~(4-6-05)~~(____)

~~*vi*~~**f.** Incidents involving the disclosure of criminal behavior by juvenile offenders. ~~(4-6-05)~~(____)

~~***b.*** *In all instances of escape, the contract provider must immediately notify the juvenile correctional center in Nampa first, followed by the regional state facility, juvenile's parent or guardian, juvenile services coordinator, and juvenile probation officer by telephone (not by facsimile). A written incident report shall also be transmitted within twenty-four (24) hours to the juvenile's parent or guardian, juvenile services coordinator, and the juvenile probation officer, unless notification to the juvenile's parent or guardian would endanger the juvenile. Transmission may be electronic or by facsimile. Upon apprehension, all of the same parties must be notified immediately.*~~ ~~*(4-6-05)*~~

0~~5~~3. Escapes Also Require Immediate Notice. In all instances of escape, the contract provider must immediately notify the juvenile correctional center in Nampa first, followed by the regional state facility, juvenile offender's parent or guardian, juvenile services coordinator, and juvenile probation officer by telephone (not by facsimile). A written incident report shall also be transmitted within twenty-four (24) hours to the juvenile offender's parent or guardian, juvenile services coordinator, and the juvenile probation officer, unless notification to the juvenile offender's parent or guardian would endanger the juvenile offender. Transmission may be electronic or by facsimile. Upon apprehension, all of the same parties must be notified immediately. ~~(4-6-05)~~(____)

a. Clothing and other personal belongings shall be secured immediately and maintained in a secure place until returned to the department. (4-6-05)

b. The contract provider shall not transfer a juvenile offender at the time of an escape. The juvenile offender shall continue to be assigned to the program, although not physically

present for up to forty-eight (48) hours. The program will be reimbursed for the days the juvenile offender was on escape status up to forty-eight (48) hours. Should the program choose to transfer the juvenile offender after his return, then the procedures outlined in Subsections 276.04 and 276.08, of these rules, shall apply. If the juvenile offender is apprehended, the contract provider should contact the juvenile services coordinator to plan for transfer of the juvenile offender to a regional facility for an updated assessment and for a placement decision. ~~(4-6-05)~~(____)

0~~3~~4. Incidents Not Requiring Immediate Notice. (4-6-05)

a. Contract providers must ensure that a detailed, written incident report is completed and signed by involved staff before the end of the shift during which the incident took place. A copy of the completed incident report must be submitted to the juvenile services coordinator no later than ten (10) business days after the incident. (4-6-05)

b. A detailed incident report is required for each incident or activity which jeopardizes the safe operation of the facility. This would include but not be limited to: (____)

i. Instances of physical assault or fighting; (____)

ii. ~~i~~Instances of lost keys or tools; (____)

iii. ~~m~~Major misconduct by one (1) or more juvenile offenders or staff; (____)

iv. ~~d~~Discovery of contraband such as weapons or drugs; and (____)

v. ~~s~~Significant property damage resulting from misconduct, negligence, or from incidents such as explosions, fires, floods, or other natural disasters. ~~(4-6-05)~~(____)

c. A detailed incident report is also required for each incident of staff or juvenile offender misconduct which results in any type of: ~~(4-6-05)~~(____)

i. Injury; (4-6-05)

ii. Physical restraint; (4-6-05)

iii. Suspension; (4-6-05)

iv. Termination of work; (4-6-05)

v. Program participation; (4-6-05)

vi. Separation, isolation, or room confinement for less than two (2) hours; (4-6-05)

vii. Detention; or (4-6-05)

viii. Arrest of a juvenile offender. ~~(4-6-05)~~(____)

0~~4~~5. Incident Report Content. Contract providers may elect to use the department's

standard incident report form or may use another form as long as all of the following information is included: (4-6-05)

a. Juvenile offender's assigned unit; ~~*(4-6-05)*~~(____)

b. Date, location, and time of the incident; ~~*(4-6-05)*~~(____)

c. Witnesses and other staff and juvenile offenders involved; ~~*(4-6-05)*~~(____)

d. Persons notified with date and time of notice; (4-6-05)

e. Type of incident by category, such as assault on staff, assault on juvenile offender, injury or illness, property damage, contraband, suicide attempt or threat, escape or attempted escape, or other misconduct; ~~*(4-6-05)*~~(____)

f. Action taken by category, such as physical restraint, separation, isolation, or room confinement with times in and out, suicide precautions, or escape precautions initiated; (4-6-05)

g. Brief narrative description of the incident; (4-6-05)

h. Signature of staff and reviewing supervisor; ~~*and*~~ ~~*(4-6-05)*~~(____)

i. Documentation of injury and medical attention provided~~.~~; and ~~*(4-6-05)*~~(____)

j. If the incident involves sexual misconduct, the incident report must include a description of action taken to: (____)

i. Keep the alleged victim(s) safe from intimidation of further abuse and maintain confidentiality; (____)

ii. Address any immediate trauma, either physical or emotional; (____)

iii. Address long-term medical or mental health needs related to the alleged abuse; (____)

iv. Notify responsible licensing, regulatory, and law enforcement agencies and preserve evidence; (____)

v. Conduct an internal investigation of the incident and as necessary request that an external investigation be completed; and (____)

vi. Prevent repetition of the abusive situation. (____)

06. Monitoring the Location of Juvenile Offenders. The contract provider must have and strictly follow a comprehensive policy covering the supervision of juvenile offenders, including a plan for monitoring all movement of those juvenile offenders both in the facility and, as appropriate, within the community. Staff at the facility must be aware of the location of every juvenile offender assigned to that program at all times. ~~*(4-6-05)*~~(____)

07. Nonresidential Absences. Nonresidential programs shall make reasonable efforts to ensure that the juvenile offenders attend their program daily or as otherwise specified in the service implementation plan. The nonresidential program shall inform the juvenile services coordinator of daily attendance and all attendance problems. This information must be documented in at least monthly progress notes and must be reported in written progress reports every two (2) months. ~~*(4-6-05)*~~(____)

263. FACILITY SEARCHES.

01. Periodic Searches. In order to ensure the safety of juvenile offenders, staff, and visitors, periodic facility searches for contraband shall be conducted. The frequency and extent of whole facility and ground searches should be consistent with program policies and can be included during other routine inspections or activities. Searches shall be conducted by staff trained in appropriate search techniques. Searches called by the facility staff do not have to include the entire facility, but can be limited to specific areas or juvenile offenders. Juvenile offenders' belongings shall be disturbed no more than necessary during the search. The search shall be documented in terms of who conducted the search, what areas were searched, and what type of contraband was found, if any. If a search yields contraband, the juvenile services coordinator will be notified and it shall be reported according to the requirements of the department. If necessary, the appropriate law enforcement agency should be notified.
~~*(4-6-05)*~~(____)

02. Policies and Procedures Governing Searches. The program shall have policies and procedures for conducting searches of juvenile offenders, staff, visitors, and all areas of the facility in order to control contraband or locate missing property. It is suggested that a sign be posted notifying visitors of the specific policy of the contract provider regarding searches.
~~*(4-6-05)*~~(____)

03. Policies and Procedures Governing Consequences. The contract provider shall have written policies and procedures establishing the consequences for juvenile offenders found with contraband. Juvenile offenders should acknowledge, with their signature, that they were informed of what constitutes contraband and also the consequences for its possession.
~~*(4-6-05)*~~(____)

04. Visitor Searches. (4-6-05)

a. Prior to visitors being allowed in the facility, they shall be given rules established by the contract provider that govern their visit and advised that they may be subject to a search. They shall sign a statement of receipt of these rules and it shall be placed in the facility's file. Visitors may be required to submit packages, handbags, and briefcases for inspection by trained staff. If there is reason to believe that additional searches are necessary, admission to the facility shall be denied. (4-6-05)

b. All visitor searches shall be documented in the facility log. When contraband is found, a written report shall be completed and submitted to the juvenile services coordinator. If necessary, the appropriate law enforcement agency will be notified. (4-6-05)

264. CONTRABAND DISPOSAL.
All contraband found in the possession of juvenile offenders, visitors, or staff shall be confiscated by staff and secured under lock and key in an area inaccessible to juvenile offenders. Local law enforcement shall be notified in the event illegal drugs, paraphernalia, or weapons are found. It shall be the responsibility of the facility director, in consultation with the department, to dispose of all contraband not confiscated by police. Visitors who bring in items that are unauthorized, but not illegal, will have these items taken and locked in an area inaccessible to the juvenile offenders during the visit. These items will be returned to the visitors upon their exit from the facility.
~~(4-6-05)~~(____)

265. SEARCHES OF PERSONAL ITEMS.
Routine searches of suitcases or personal items being introduced into the facility will be conducted by facility staff prior to the juvenile offender taking possession of his property, or when the juvenile offender is returning to the facility from an ~~home~~ individual community pass. Search of a juvenile offender's belongings may be done at any time and shall be minimally intrusive. All searches shall be documented in the facility log and, if contraband is found, a written incident report must be submitted to the juvenile services coordinator. If necessary, the appropriate law enforcement agency shall be notified. ~~(4-6-05)~~(____)

266. JUVENILE OFFENDER PAT DOWN SEARCHES.

01. Necessity. Pat down searches of juvenile offenders may be conducted whenever the contract provider believes it is necessary to discourage the introduction of contraband into the facility, or to promote the safety of staff, juvenile offenders, and visitors. A pat down search may be used when a juvenile offender is returning from a visit, or outside appointment, or activity.
~~(4-6-05)~~(____)

02. Pat Down Searches. Pat down searches shall be conducted in the manner required by the child care licensing rules of the Idaho Department of Health and Welfare. (4-6-05)

03. Documentation. All pat down searches shall be documented in the facility log. A written report shall be completed when contraband is found and shall be submitted to the juvenile services coordinator. If necessary, the appropriate law enforcement agency shall be notified.
(4-6-05)

267. JUVENILE OFFENDER STRIP SEARCHES.

01. Reasonable Suspicion. Strip searches may be performed by facility staff, only after a pat down search, whenever there is reasonable suspicion to believe that weapons or contraband may be found through additional searches. Strip searches shall be authorized by the facility director or designee and conducted strictly in the manner required by the child care licensing rules of the Idaho Department of Health and Welfare. (4-6-05)

02. Documentation. All strip searches shall be documented in the facility log. A written report shall be completed when contraband is found and shall be submitted to the juvenile services coordinator. If necessary, the appropriate law enforcement agency shall be notified.
(4-6-05)

268. DRUG SCREENS OF JUVENILE OFFENDERS.
Drug screens may be done randomly or on an as needed basis at the contract provider's expense with the approval of the contract provider's director. A record shall be kept of all drug screens and results. A positive drug screen shall immediately be reported to the juvenile services coordinator supervising the case. ~~*(4-6-05)*~~(____)

269. USE OF FORCE OR PHYSICAL RESTRAINTS.
Contract providers, licensed by the Idaho Department of Health and Welfare, must ensure that all terms of the child care licensing rules of the Idaho Department of Health and Welfare are strictly followed~~*, as appropriate*~~. Additionally, licensed and non-licensed contract providers must ensure that: ~~*(4-6-05)*~~(____)

01. Minimal Use. Only the minimum level of force necessary to control a juvenile offender's destructive behavior shall be used. ~~*(4-6-05)*~~(____)

02. Physical Force. Physical force, at any level, may only be used to prevent injury to the juvenile offender or to others and to prevent serious damage to property or escape. Physical force shall never be used as punishment. ~~*(4-6-05)*~~(____)

03. Reporting Requirement. All instances of ~~*inappropriate*~~ use of force must be documented in an incident report and submitted ~~*to the juvenile services coordinator*~~ according to the terms of Subsection 262.02 of these rules. ~~*These i*~~Incidents of inappropriate use of force must be reported to the Idaho Department of Health and Welfare, or law enforcement as required by law. ~~*(4-6-05)*~~(____)

270. DISPOSITION OF REFERRALS FROM THE DEPARTMENT.
A juvenile offender's admission into a program shall be based on an assessment of the juvenile offender's strengths, problems, risks and needs, and on the anticipated ability of the program to reasonably address those issues. Contract providers shall ensure that the juvenile offender and parent or guardian are provided an opportunity to participate in the admission process and related decisions. ~~*(4-6-05)*~~(____)

01. Accepting Referral. Upon receipt of a complete referral packet from the department, the contract provider has two (2) business days in which to decide whether to accept or decline the referral. Upon acceptance, the Referral Acceptance/Denial Form, attached to the referral packet, must be completed and signed. By accepting the referral, the contract provider agrees to address the identified treatment goals and the anticipated length of stay. Once the acceptance has occurred, the juvenile offender's transportation will be made. ~~*(4-6-05)*~~(____)

02. Declining Referral. Contract providers shall not, without just cause, deny admission to any juvenile offender who meets the specific admission criteria set forth in the program description. If a contract provider denies a referral, the specific reason for denial must be documented on the department's Referral Acceptance/Denial Form and the form returned to the regional referral coordinator. The contract provider shall then shred the referral packet. ~~*(4-6-05)*~~(____)

03. Change in Admission Criteria. Any change in the contract provider's admission criteria must be reflected in the admission policy and requires a written amendment to the contract

with the department. Temporary exceptions are covered under Section 101, of these rules. (4-6-05)

271. ONGOING TREATMENT AND CASE MANAGEMENT.
The juvenile offender must always be aware of the status of his progress within the program and what remains to be done to complete the program. Contract providers must assure that the basic norms and expectations of the program are clearly presented to the juvenile offender and that they are understood. Any points, levels or phases that are a fundamental part of a program must be clearly understood by the juvenile offender in the program. Each juvenile offender's progress, or lack of progress, through these levels must be clearly documented and must be related to documented behavior. Recommendations for release from department custody or transfer should be substantiated by a documented pattern of behavioral change over a period of time. Recommendations for transfer to a higher level of custody must be substantiated by a documented lack of progress over time, or by a serious or violent incident which threatens the safety of others or the stability of the overall program. (____)

01. Service Implementation Plan. Within thirty (30) calendar days of the juvenile offender's admission into the program, a written service implementation plan must be developed. The service implementation plan must ~~*relate services to be provided for each juvenile to the risks, needs and competencies*~~ address the specific goals identified in the service plan from the observation and assessment report~~ *provided by the department for that juvenile*~~. The service implementation plan should, at a minimum, address the following areas as indicated by need: ~~*(4-6-05)*~~(____)

a. Health; (4-6-05)

b. Mental health; (4-6-05)

c. Substance abuse; (4-6-05)

d. Social skills; (4-6-05)

e. Education; (4-6-05)

f. Vocations; (4-6-05)

g. Independent living; (4-6-05)

h. Other special needs; ~~*and*~~ ~~*(4-6-05)*~~(____)

i. Progress notes from the initial period of placement in the program~~.~~; and ~~*(4-6-05)*~~(____)

j. Reintegration plan. (____)

02. Family Involvement. Each juvenile offender and, to the fullest extent possible, the family should be involved in developing the service implementation plan, and in adjusting that plan throughout the course of commitment. ~~*(4-6-05)*~~(____)

03. Department Assessments. Assessments provided by the department shall not be repeated by the contract provider at the time of admission into the program without specific justification provided to the regional clinical supervisor. (4-6-05)

04. Service Implementation Plan Adjustments. The service implementation plan should be adjusted throughout placement with the concurrence of the juvenile services coordinator following communication with the community treatment team. Specifically, the service implementation plan should be adjusted as new needs are identified, as goals are achieved, and as plans for reintegration are finalized. (4-6-05)

05. Progress Notes. Monthly progress notes must be filed recording each juvenile offender's progress toward completing the service implementation plan. ~~*(4-6-05)*~~( )

06. Education Plan. A copy of the juvenile offender's education plan shall be a component of the service implementation plan. This education plan shall include the juvenile offender's course of study (GED, secondary, post-secondary, etc.), long-term educational goals and short-term objectives, and shall comply with all state and federal laws. If the juvenile offender has been identified as eligible to receive services under Section 504 of the federal Rehabilitation Act of 1973 (Section 504) or the federal ~~*Individuals with Disabilities Education Act (*~~IDEA~~*)*~~, a copy of the ~~*Individualized Educational Plan (*~~IEP~~*)*~~, and supporting documentation shall be ~~*available for review by the department and the Idaho Department of Education*~~ sent to the department's education manager at the juvenile correctional center in Nampa within ten (10) days from development. The education plan shall be updated and submitted yearly ~~*to the juvenile correctional center in Nampa while the education progress reports shall be submitted every other month*~~. Written educational progress (report cards) shall be submitted to the department's education manager at the juvenile correctional center in Nampa at the end of each school's grading period, e.g. quarter, semester, trimester, etc. ~~*(4-6-05)*~~( )

a. Contract providers may choose to utilize the department's software program provided by the department for managing special education students' paperwork. ( )

b. If this option is selected, an e-mail to the education records manager at the juvenile correctional center in Nampa will be required stating that the required documents have been completed in the software program. It will not be necessary to mail hard copies of the documents. ( )

07. Progress Report. The progress report should focus on areas of positive change in behavior and attitudes, as well as on the factors required for a successful program completion (progress in community protection, competency development, and accountability). Areas of need that were included in the service implementation plan and identified in Subsection 271.01, of these rules, should also be referenced in the progress report. Each progress report should also note any changes or further development of the reintegration plan and should detail the level of involvement of the parent or guardian in treatment. A written progress report must be submitted to the juvenile services coordinator at least every two (2) months. (4-6-05)

08. Report Distribution. Copies of the progress report shall be distributed by the contract provider to the juvenile offender and the juvenile services coordinator. The juvenile

services coordinator will review and forward the progress report to the juvenile probation officer, appropriate court, and parent or guardian, unless the juvenile offender's family has been excluded from treatment by the juvenile services coordinator and the respective clinical supervisor for some well documented reason. ~~*(4-6-05)*~~(____)

~~***a.*** *The juvenile must always be aware of the status of his progress within the program and what remains to be done to complete the program.* *(4-6-05)*~~

~~***b.*** *Programs must provide an educational program that is tailored to each juvenile's educational level, abilities, problems, and special needs, and improves educational performance and vocational skills while in care.* *(4-6-05)*~~

~~***c.*** *Each juvenile should have a written individual learning plan for education based upon assessed academic, emotional, developmental and behavioral needs, and competencies. Juveniles determined to be eligible for special education must be provided these services. The provision of these services and the progress made academically must be documented regularly in a separate educational file. Juveniles qualifying for special education must have a valid IEP available for review by the department and the Idaho Department of Education. A copy of the IEP and all supporting documentation must be sent to the department's education records manager within ten (10) business days or less of its completion for inclusion in the student's permanent school records that are maintained at the juvenile correctional center in Nampa.* *(4-6-05)*~~

~~***d.*** *Contract providers must assure that the basic norms and expectations of the program are clearly presented to juveniles and that they are understood. Any points, levels or phases that are a fundamental part of a program must be clearly understood by juveniles in the program. Each juvenile's progress, or lack of progress, through these levels must be clearly documented and must be related to documented behavior. Recommendations for release from department custody or transfer should be substantiated by a documented pattern of behavioral change over a period of time. Recommendations for transfer to a higher level of custody must be substantiated by a documented lack of progress over time, or by a serious or violent incident which threatens the safety of others or the stability of the overall program.* *(4-6-05)*~~

272. INDIVIDUAL COMMUNITY PASSES.
Prior to granting ~~*a day pass or a home*~~ any individual community pass to a juvenile offender, the contract provider shall contact the juvenile probation officer and the juvenile services coordinator to ensure that neither the court nor the department has placed restrictions on the juvenile offender's pass privileges. All requests for passes must be approved by the juvenile services coordinator. Any pass involving an overnight stay away from the facility, or involving special circumstances such as a sexual victim in the home, requires a written plan detailing supervision and safety measures to be taken, an itinerary for the visit, transportation plan, and must be approved in writing five (5) business days in advance by the juvenile services coordinator. Each time a juvenile offender leaves on and returns from an individual community pass, the contract provider must notify the juvenile correctional center in Nampa of this movement, promptly at the time that the juvenile offender leaves and at the time he returns. ~~*(4-6-05)*~~(____)

01. Potential Risk to Public Safety. All passes for juvenile offenders assigned to residential facilities should be considered as an integral part of the service implementation plan. However, in all cases, the potential risk to public safety and adequacy of home supervision shall

be considered prior to allowing a juvenile offender to return home. It is also important that passes not interfere with the ongoing treatment and supervision needed by juvenile offenders. Contract providers must provide parents or guardians with clearly written guidelines for approved passes, which must be signed by parents or guardians indicating their understanding and willingness to comply with those guidelines. The department's ~~*Off-Campus* P~~pass form may be used for this purpose. If the department's form is not used, the form signed and agreed to by the individual assuming responsibility for supervision, the pass must contain at least the following information: ~~*(4-6-05)*~~(____)

a. The juvenile offender's name and date of birth; ~~*(4-6-05)*~~(____)

b. The name, address and telephone number of the individual assuming responsibility; (4-6-05)

c. Authorized days, dates and times for the pass, including the specific date and time of departure and of return; (4-6-05)

d. A complete listing of the anticipated locations and activities in which the juvenile offender is expected to be involved; ~~*(4-6-05)*~~(____)

e. Specific plans for supervision and telephone checks to verify compliance with the pass conditions; (4-6-05)

f. A complete listing of the activities required during the pass; (4-6-05)

g. Specific stipulations prohibiting: (4-6-05)

i. The use of alcohol, tobacco, and drugs; (4-6-05)

ii. Involvement in any illegal activity, or association with others who may be or have been involved in illegal behavior; (4-6-05)

iii. Participation in sexual relations of any kind; (4-6-05)

iv. Possession of any kind of firearm or weapon; (4-6-05)

v. Any violation of the terms of probation; and (4-6-05)

h. Specific stipulations about search and drug testing upon return, and the possible consequences for violation of any of the terms of the pass agreement. (4-6-05)

02. Eligibility. A juvenile offender must be in placement a minimum of thirty (30) calendar days before he is eligible for any pass. Any exceptions due to extenuating circumstances must be approved by the juvenile services coordinator. ~~*(4-6-05)*~~(____)

03. Frequency. Frequency of passes shall be consistent with the terms of the juvenile offender's service implementation plan and contract provider's contract with the department. ~~*(4-6-05)*~~(____)

04. Documentation. Documentation of the exact date and time of the juvenile offender's departure from the program for a pass, and his return, must be maintained along with complete information about the individual assuming physical custody, transportation, and supervision during the pass. ~~(4-6-05)~~(____)

273. GROUP ACTIVITIES OFF FACILITY GROUNDS.
An activity plan and itinerary covering activities to be engaged in, when and where the group is going, how they will travel, how long they will stay, and why the activity is being planned must be submitted to the juvenile services coordinator at least five (5) business days prior to the activity. The activity plan must identify the specific risk elements associated with the activity and provide a safety plan for each of those risk elements. Routine, low risk activities within the local community adjacent to the facility do not require prior notice, and are to be conducted at the discretion of and under the responsibility of the contract provider. (4-6-05)

01. Recreational Activities. A pass authorizing the participation of juvenile offenders in outdoor recreational or work activities with an increased risk, such as overnight trips, must be signed by the juvenile services coordinator and juvenile probation officer prior to the activity. Any proposed activity that involves rafting, boating, rappelling, rock climbing, or higher risk activity must also have the prior approval, in writing, of the clinical services administrator. ~~(4-6-05)~~(____)

02. Staff Requirements. (4-6-05)

a. A basic first aid kit and current Red Cross First Aid Manual will be taken with the group. At least one (1) person certified in first aid and CPR shall accompany the group. (4-6-05)

b. Swimming, boating, or rafting will only be allowed when a staff in attendance has certification in basic rescue and water safety, water safety instruction, or Red Cross life saving. All juvenile offenders involved in boating or rafting activities must wear an approved personal flotation device. ~~(4-6-05)~~(____)

c. A staff to juvenile offender ratio of one to six (1:6) will be adhered to as a minimum unless there is a reason to require more staff. The risk level of the activity, as well as any physical disabilities, high client irresponsibility, mental deficiencies, or inclusion of groups of juvenile offenders ~~below~~ under age twelve (12), are some reasons to consider additional staff. ~~(4-6-05)~~(____)

d. All participants will be recorded in the activity plan and identified as program clients, staff, or volunteers. The individual staff or volunteer satisfying the above first aid and CPR requirements must be identified in the plan. (4-6-05)

03. Consent Forms. Recreational activities identified as presenting a higher risk require prior written approval in accordance with Subsection 273.01 of these rules. Each juvenile offender must have prior written consent from a parent or guardian, if available, and the clinical services administrator. Consent shall include: ~~(4-6-05)~~(____)

a. Permission for the juvenile offender's participation; ~~(4-6-05)~~(____)

b. Acknowledgement of planned activities; and (4-6-05)

c. Permission for the contract provider to seek or administer necessary medical attention in an emergency. (4-6-05)

04. Consumption. There will be no consumption of alcoholic beverages or illicit drugs by staff or juvenile offenders or volunteers while engaged in any agency-sponsored trip or activity. ~~*(4-6-05)*~~(____)

274. ACTIVITY REPORTS.
At the conclusion of each pass or group activity, the contract provider shall determine whether any problems occurred or other significant positive or negative events transpired while the juvenile offender was on pass. This information shall be documented in the juvenile offender's file. Any unusual occurrences shall be reported to the juvenile services coordinator and documented on an incident report. A drug screening urinalysis may be conducted on each returning juvenile offender, at the expense of the contract provider, and the results of that exam reported to the juvenile services coordinator. ~~*(4-6-05)*~~(____)

275. OUT-OF-STATE TRAVEL.
When a contract provider is planning an out-of-state trip for any of its juvenile offenders, the facility administrator shall obtain prior written authorization from the regional clinical supervisor or designee. The necessary sequence of action and approval is as follows: ~~*(4-6-05)*~~(____)

01. Notification. The contract provider shall notify the juvenile services coordinator in writing two (2) weeks in advance of the scheduled trip with the following: (4-6-05)

a. Dates of the scheduled trip; (4-6-05)

b. Location of the trip; (4-6-05)

c. Purpose of the trip; (4-6-05)

d. Transportation arrangements; (4-6-05)

e. Where the juvenile offender will be staying if overnight accommodations are required (address and phone number); and ~~*(4-6-05)*~~(____)

f. Who is going, such as juvenile offender, and name and position of staff. ~~*(4-6-05)*~~(____)

02. Prior Approval. The administrator shall obtain all necessary approvals prior to authorizing travel. (4-6-05)

276. PLANNING FOR REINTEGRATION.
Each area of continuing need must be specifically addressed (health, mental health, substance abuse, social skills, other specialized needs). (____)

01. Programs. Programs must promote continuity in programming and services for juvenile offenders after they leave the program by assuring that essential information is forwarded to those agencies that will be providing services to the juvenile offenders, and working closely with department staff throughout placement to plan for reintegration. ~~(4-6-05)~~(____)

02. Approval. Reintegration, by release from department custody or transfer, shall not take place without the involvement of the department's assigned juvenile services coordinator, and the approval in writing of the regional clinical supervisor and regional superintendent. (4-6-05)

03. Department Concurrence. Preparation for reintegration of a juvenile offender begins with the initial development of a service plan and is an ongoing process throughout the juvenile offender's program. Criteria for the juvenile offender's release from department custody or transfer shall be explained to him as soon as possible after admission to a program. ~~(4-6-05)~~(____)

04. Reintegration Plan. Within the first thirty (30) calendar days after a juvenile offender is admitted to a program, a written reintegration plan shall be formulated as one (1) part of the overall service implementation plan. The reintegration plan should include: ~~(4-6-05)~~(____)

a. The juvenile offender's anticipated length of stay; ~~(4-6-05)~~(____)

b. Specific program goals to be achieved while in the program; (4-6-05)

c. Living arrangements upon release from department custody or transfer; (4-6-05)

d. Resources necessary for the juvenile offender to continue to meet treatment goals in the community; ~~(4-6-05)~~(____)

e. Resources necessary for the juvenile offender to continue an appropriate education; and ~~(4-6-05)~~(____)

f. Terms of continued probation to the extent that they are known and addressed in progress reports. (4-6-05)

05. Written Recommendation. Contract providers shall provide to the juvenile services coordinator a written recommendation for release from department custody or transfer at least thirty (30) calendar days prior to the juvenile offender's anticipated completion of the program. This recommendation shall include: ~~(4-6-05)~~(____)

a. A current summary of the juvenile offender's progress; ~~(4-6-05)~~(____)

b. A summary of the efforts to reach the juvenile offender's goals and objectives, including education; ~~(4-6-05)~~(____)

c. Any unresolved goals or objectives; (4-6-05)

d. Reinforcement goals and objectives for parents, guardians, or reintegration

workers; (4-6-05)

e. Recommendation for continuing services, including education, in the home community; (4-6-05)

f. The prognosis; and (4-6-05)

g. The current address of the recommended custodian. (4-6-05)

06. Reintegration Staffing. The juvenile services coordinator shall convene a reintegration staffing which will include the juvenile offender's probation officer, the contract provider, the juvenile offender's parent or guardian, an education representative, and the juvenile offender. Based upon the results of that staffing, the department will make the final decision regarding transfer or release from department custody. At a minimum, the reintegration staffing must consider and, to the extent possible, solidify plans to address any ongoing health, mental health, substance abuse, social skills, education, vocation, independent living, and other special needs. ~~(4-6-05)~~(____)

07. Check-Out Procedures. Prior to the release from department custody or transfer, the contract provider must have completed a Contract Provider Juvenile Check-Out Form supplied by the department. The form shall be dated, signed by the juvenile offender, and forwarded to the juvenile services coordinator on the actual date that the juvenile offender leaves the program. ~~(4-6-05)~~(____)

a. The contract provider shall immediately provide the juvenile offender's medication, prescriptions and Medicaid card, if applicable, to the individual or agency authorized to transport the juvenile offender. ~~(4-6-05)~~(____)

b. Within two (2) business days after a juvenile offender leaves the facility or program, the contract provider shall send any available dental or medical records to the privacy officer at the nearest department regional facility. All school records available from school(s) the juvenile offender attended while in the program shall be sent to the juvenile correctional center in Nampa. ~~(4-6-05)~~(____)

c. Within two (2) business days after a juvenile offender leaves the facility or program, the contract provider shall send a report showing the juvenile offender's total hours, credits, and associated grades directly to the juvenile correctional center in Nampa. The contract provider shall maintain adequate documentation to support the submitted education reports. Timely receipt of these records is critical to assist the transition of the juvenile offender to another educational facility. If contracted facilities choose to utilize the department's software programs provided by the department for course enrollment and grading, the contract facility education staff will enter final grades into the department's software program prior to transfer. An e-mail notification to the education records manager at the juvenile correctional center in Nampa will be required once the final grades have been entered. The hard copy of the education files shall be mailed within two (2) business days of the juvenile offender's transfer. ~~(4-6-05)~~(____)

08. Termination Prior to Completion. (4-6-05)

a. When a contract provider believes a juvenile offender is at risk for transfer prior to program completion, the juvenile services coordinator must be notified as far in advance as possible so that a staffing with the regional clinical supervisor and, if necessary, the clinical services administrator, may be held. The purpose of this staffing is to consider the circumstances which may require the transfer, and to make every effort to address the concerns with the contract provider to avoid the necessity of making another placement. The contract provider must document these efforts at problem solving. The department will make a decision about transfer based upon the results of this staffing and any subsequent work agreed upon with the contract provider. The contract provider can request transfer of a juvenile offender in the following circumstances: ~~(4-6-05)~~(____)

i. A pattern of documented behavior clearly indicating a lack of progress; or(4-6-05)

ii. Commission of one (1) or more serious or violent incidents that jeopardize the safety and security of individuals or the program. (4-6-05)

b. In matters involving life, health, and safety of any juvenile in department custody, the department shall remove the juvenile offender immediately. ~~(4-6-05)~~(____)

c. A comprehensive summary shall include, at a minimum, a report on progress or lack of progress on all service implementation plan areas, and recommendations for follow-up. The summary shall be forwarded to the juvenile services coordinator within twenty-four (24) hours of release from department custody or transfer prior to program completion. (4-6-05)

d. In cases of all releases from department custody and transfers, the contract provider shall send any available dental or medical records to the privacy officer at the nearest department regional facility. All school records available from school(s) the juvenile offender attended while in the program shall be sent to the juvenile correctional center in Nampa. ~~(4-6-05)~~(____)

e. The summary shall be forwarded to the department within five (5) business days of the date of transfer or release from department custody, if the juvenile offender has completed the program. ~~(4-6-05)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

278. GUIDELINES FOR SPECIFIC SERVICES.

01. Counseling Services. (4-6-05)

a. All counseling services provided to juvenile offenders, whether individual, group or family, must be performed by a clinician, counselor, or therapist as defined in these rules. ~~(4-6-05)~~(____)

b. Counseling should be planned and goal directed. (4-6-05)

c. Notes must be written for each service provided. The notes must be dated, clearly labeled either individual, group or family counseling, and each entry must be signed by the clinician, counselor, or therapist performing the service. (4-6-05)

d. The methods and techniques applied in counseling and the frequency and intensity of the sessions should be determined by assessment. (4-6-05)

e. Counseling should be reality oriented and directed toward helping juvenile offenders understand and solve specific problems; discontinue inappropriate, damaging, destructive or dangerous behaviors; and fulfill individual needs. ~~*(4-6-05)*~~( )

f. The minimum standard for the frequency of counseling services shall be specified in the comprehensive program description attached to the contract with the department. (4-6-05)

g. There should be a mechanism developed to monitor and record incremental progress toward the desired outcome of counseling services. (4-6-05)

h. Programs should be able to demonstrate that counseling interventions are shared in general with other program service providers, and there is broad mutual support for the goals of counseling in all service areas of the program. (4-6-05)

i. Programs must provide crisis intervention counseling if warranted by the assessment and circumstances. (4-6-05)

j. The contract provider must furnish adequate space for conducting private interviews and counseling sessions at the facility. (4-6-05)

k. Family counseling services must be available as a part of the juvenile offender's service implementation plan, to the extent that this is supported by the assessment. If the assessment indicates a need for these services, family counseling should specifically address issues that, directly or indirectly, resulted in the juvenile offender's removal from his home and the issue of his eventual reintegration back into the family unit. A statement of goals to be achieved or worked toward by the juvenile offender and his family should be part of the service implementation plan. ~~*(4-6-05)*~~( )

02. Substance Abuse Treatment Services. As a minimum standard, programs must provide substance abuse education for all juvenile offenders, and substance abuse treatment services as determined by assessment and indicated in the service implementation plan. Substance abuse treatment services must have direct oversight by a certified alcohol and drug counselor, or master's level clinician with three (3) years experience in the substance abuse field. Substance abuse treatment services must be fully described in the detailed program description and must have a written curriculum containing a description of each session offered. Juvenile offenders receiving substance abuse treatment services shall have ~~*access to in-house or community Alcoholics Anonymous and Narcotics Anonymous meetings, or*~~ an orientation to ~~*the*~~ a twelve-step program at the appropriate point in his treatment, or an introduction to a community intervention program if a twelve-step program is not appropriate for him. Relapse prevention plans must be a component of the substance abuse treatment services provided in programs offering more than

substance abuse education. Relapse prevention plans must be specifically based on the individual needs of the juvenile offender. Notes documenting the service provided must be dated, clearly labeled "substance abuse treatment services," and each entry must be signed by the counselor performing the service. ~~(4-6-05)~~(____)

03. Suicide Prevention and Risk Management. In addition to the policy required in Paragraph 261.01.e., of this rule, contract providers must be able to demonstrate that they: (4-6-05)

a. Train staff regularly to identify, document and appropriately respond to behavior that may indicate a risk of suicide; (4-6-05)

b. Utilize medical or other staff trained by a mental health professional to review history, and interview and observe juvenile offenders new to the program in order to complete suicide risk screening within two (2) hours of admission; ~~(4-6-05)~~(____)

c. Utilize a mental health professional to complete a suicide risk assessment on a juvenile offender who has been identified by staff as presenting a risk of suicide; ~~(4-6-05)~~(____)

d. Utilize mental health professionals to help develop a safety plan for each juvenile offender identified as presenting a risk for suicide, and to determine when that risk is reduced enough to reduce or terminate suicide precautions; and ~~(4-6-05)~~(____)

e. Prohibit the use of separation and isolation of juvenile offenders identified as presenting a suicide risk, unless constant one-on-one (1 on 1) staff supervision is provided and that all juvenile offenders in separation or isolation are closely monitored to reduce the risk of suicidal behaviors. ~~(4-6-05)~~(____)

04. Social Skills Training Including Relapse Prevention Skills. Programs must assess each juvenile offender's social skills and document specific services provided to improve functioning in this area. Additionally, every juvenile offender must have developed a written relapse prevention plan prior to successfully completing the program. ~~(4-6-05)~~(____)

05. Health Services. Programs must be able to demonstrate compliance with the required policy concerning access to routine and emergency health and mental health care and, in addition, should provide a basic health curriculum for all juvenile offenders. Contract providers must provide and document a health and suicide risk screening of each juvenile offender within two (2) hours of admission into the program. ~~(4-6-05)~~(____)

06. Vocational and Prevocational Services. Programs must be able to demonstrate that each juvenile offender's vocational interests and needs have been assessed and an appropriate level of services has been provided. These services may range from a specific vocational skills curriculum, offered on site or in the community, to a prevocational skills component, which at a minimum, involves juvenile offenders in assessing their vocational interests and strengths. ~~(4-6-05)~~(____)

07. Basic Life Skills and Independent Living. Programs must be able to demonstrate that juvenile offenders are taught basic life skills and that age-appropriate juvenile offenders are

involved in independent living skills consistent with their age and needs. This program should include, at a minimum, instruction in: ~~(4-6-05)~~(____)

a. Hygiene and grooming skills; (4-6-05)

b. Laundry and maintenance of clothing; (4-6-05)

c. Appropriate social skills; (4-6-05)

d. Housekeeping; (4-6-05)

e. Use of recreation and leisure time; (4-6-05)

f. Use of community resources; (4-6-05)

g. Money management; (4-6-05)

h. Use of public transportation, where available; (4-6-05)

i. Budgeting and shopping; (4-6-05)

j. Cooking; (4-6-05)

k. Punctuality, attendance and other employment-related matters; and (4-6-05)

l. Vocational planning and job finding skills. (4-6-05)

08. Recreational Services. Programs should have a written plan for providing recreational services based on individual needs, interests, and functional levels of the population served. (4-6-05)

a. The recreational program should include indoor and outdoor activities. Activities should minimize television and make use of a full array of table games and other activities that encourage both solitary entertainment and small group interaction. An appropriately furnished area should be designated inside the facility for leisure activities. (4-6-05)

b. Programs should have staff educated and experienced in recreational programs to ensure good planning, organizing, supervision, use of facility, and community activities. Recreational activities considered part of the service implementation plan must be funded by the contract provider. The use of community recreational resources should be maximized, as long as community safety is assured. The contract provider must arrange for the transportation and provide the supervision required for any usage of community recreational resources. No juvenile offender shall be required to pay to participate in recreational activities made available through the program. ~~(4-6-05)~~(____)

279. EMPLOYMENT OF JUVENILE OFFENDERS.

01. Employment. If juvenile employment away from the program site is a part of the

program, written policy and procedure must provide that program resources and staff time are devoted to helping employable juvenile offenders locate employment. Programs must ensure that each employment opportunity meets all legal and regulatory requirements for juvenile employment. The contract provider shall make periodic checks on the job-site to ensure the juvenile offender is working under acceptable conditions. The juvenile offender's employer shall be consulted regularly by the contract provider concerning the juvenile offender's work abilities and performance on the job-site. Under no circumstances should staff or the families of staff benefit financially, or otherwise, from work done by juvenile offenders in the program. Contract providers must make every reasonable effort to assure that each juvenile offender's transportation to and from a job-site is safe. ~~*(4-6-05)*~~(____)

02. Employment Opportunities. Every reasonable effort shall be made to select employment opportunities that are consistent with the individual interests of the juvenile offender to be employed. Preference will be given to jobs that are related to prior training, work experience, or institutional training, and may be suitable for continuing post-release employment. Reasonable effort must be made to provide a juvenile offender with the highest paying job possible. Income earned by a juvenile offender shall be handled consistent with Subsection 212.04, of these rules. ~~*(4-6-05)*~~(____)

280. RELIGIOUS SERVICES.
Programs must ensure that attendance at religious services is voluntary. No juvenile offender shall be required to attend religious services, and no juvenile offender shall be penalized for not attending nor given privileges for certain attendance. ~~*(4-6-05)*~~(____)

01. Voluntary Practice. All juvenile offenders must be provided the opportunity to voluntarily practice their respective religions in a manner and to the extent that will not compromise the safety, security, emotional, or physical well-being of the juvenile offenders in the facility. ~~*(4-6-05)*~~(____)

02. Attendance. Juvenile offenders may be permitted to attend religious services of their choice in the community as long as community safety is ensured. ~~*(4-6-05)*~~(____)

03. Transportation. Programs must, when reasonably possible, arrange transportation for those juvenile offenders who desire to take part in religious activities of their choice in the community. ~~*(4-6-05)*~~(____)

04. Risk to Community. If the juvenile offender cannot attend religious services in the community because staff has reason to believe he would attempt to escape, or otherwise present a risk to the safety of the community, the contract provider must make every reasonable effort to ensure that he has the opportunity to participate in religious services of his choice at the facility. ~~*(4-6-05)*~~(____)

05. Visits. Juvenile offenders shall be permitted to receive visits from representatives of their respective faiths. ~~*(4-6-05)*~~(____)

06. Minor Juvenile Offenders. When the juvenile offender is a minor, the contract provider shall make reasonable effort to comply with the wishes of the legally responsible person with regard to religious observances. A program's staff schedule shall not encourage or

discourage participation in general or specific religious services or activities. ~~*(4-6-05)*~~(____)

281. -- 299. (RESERVED).

300. EDUCATION SERVICES.

01. Appropriate Services. The contract provider shall ensure that each juvenile offender is given appropriate educational and vocational services that are consistent with the juvenile offender's abilities and needs, taking into consideration age, level of functioning, and any educational requirements specified by state or federal law. Contract providers must assure that educational services provided as a part of an overall program play an integral part in the process of reclaiming juvenile offenders to responsible roles in society. Educational services must strive to facilitate positive behavior change by helping juvenile offenders to develop abilities in academic, workplace, and technological areas; to restructure harmful or limiting cognitive patterns; and, to adopt appropriate social interactions skills. Educational services provided by contract providers must use whatever combination of approaches and motivations that will best facilitate the learning process in conjunction with the service implementation plan. All educational services provided must meet all mandates of the No Child Left Behind Act (NCLB), the ~~*Individuals with Disabilities Education Act (*~~IDEA~~*)*~~, the Family Educational Rights and Privacy Act (FERPA), and Section 504, Rehabilitation Act of 1973 (Section 504). ~~*(4-6-05)*~~(____)

02. Mandatory Enrollment. Contract providers must ensure that all juvenile offenders involved in their programs who are of mandatory school age, or who have not yet obtained a General Educational Development (GED) or high school diploma, are enrolled in a school system or in a program approved and certified by the Idaho Department of Education to provide both special education and other services. For those who have obtained a GED or high school diploma, an appropriate educational and vocational service shall be provided in accordance with the service implementation plan. The department shall provide contract providers access to the department's software programs to record courses and grades. When contract providers choose to use these software programs, they need not send the department report cards; they need only assure all grades are entered through the software program at the end of each grading period. ~~*(4-6-05)*~~(____)

03. Cooperative Relationships. Contract providers may provide educational services through a cooperative agreement with the local education agency ~~*(LEA)*~~ or through an in-house educational program administered by the contract provider. If a~~*n LEA*~~ local education agency provides the services, it is expected that the contract provider will ~~*enter into*~~ have a written agreement with a local education agency that clearly defines the services ~~*to*~~ that will be provided in the contract facility. The written agreement must include, at a minimum, all of the following: ~~*(4-6-05)*~~(____)

a. Level of participation in reintegration planning for each juvenile offender; ~~*(4-6-05)*~~(____)

b. That grades will be submitted, as required in Subsection 300.09 of these rules, within twenty-four (24) hours of transfer or release from department custody; (4-6-05)

c. Curriculum for special education services, if appropriate; (4-6-05)

d. A plan for the provision of state required testing; and (4-6-05)

e. Types of services that will be provided beyond the established limits of the regular school year for that school district. (4-6-05)

04. Costs of Educational Services. If a~~*n LEA*~~ local education agency agreement is developed, the Idaho Department of Education will flow education funds to the ~~*LEA*~~ local education agency in a manner consistent with current legislative funding mandates. A copy of the memorandum of understanding between the contract provider and the ~~*LEA*~~ local education agency must be provided to the department, and the source of funds to cover the costs for educational services clearly accounted for in the budget attached to the program description. If the contract provider elects to provide the services in-house, the cost of educational services will be included in the daily contract rate. The contract provider will not be eligible to receive educational funding through both of these sources. ~~*(4-6-05)*~~( )

05. Accreditation Requirements. Each contract provider serving juvenile offenders, who have been committed to the department, will have, or contract with, an education program that will meet the accreditation standards of the Northwest Association of Schools and of Colleges and Universities or the Idaho Department of Education. ~~*(4-6-05)*~~( )

06. Educational Assessment. Federal and state laws mandate that juvenile offenders be provided with an appropriate education. Contract providers are responsible for providing an educational track which will best serve the needs of each juvenile offender, as determined by the assessment provided by the department through the observation and assessment process, or as determined by an assessment completed by a local school district. A copy of the relevant assessment and related current and valid education~~*al*~~ plan, as well as all supporting documentation for each juvenile offender, must be maintained in a separate file and must be available to the department and to the Idaho Department of Education. A copy of the IEP and all supporting documentation must be sent to the department's education records manager within ten (10) business days or less of its completion for inclusion in the ~~*student's*~~ juvenile offender's permanent school records that are maintained at the juvenile correctional center in Nampa. ~~*(4-6-05)*~~( )

a. Contract providers are responsible for ongoing, yearly reassessment of each juvenile offender's progress within the education program as well as documenting and reporting that progress. This responsibility extends to completing a reassessment just prior to release from department custody or transfer, and reporting academic gain both for individual juvenile offenders as well as composite data for the education program overall. ~~*(4-6-05)*~~( )

b. Consistent with statewide educational standards, contract providers are responsible for assuring that each juvenile offender is tested twice annually using the Idaho Standards Achievement Test (ISAT). Contract providers must also administer the Direct Math and Writing Assessments or other tests mandated by the administrative rules of the Idaho Board of Education. Any fees associated with the testing services will be the responsibility of the contract provider. Results of testing shall be submitted to the department's education file manager at the juvenile corrections center in Nampa within ten (10) days after the contract providers' receipt of the scores. ~~*(4-6-05)*~~( )

07. GED and High School Equivalency (HSE) Eligibility. Contract providers must assure that ~~*General Educational Development*~~ GED tests ~~*(GED)*~~ will be administered to ~~*students*~~ juvenile offenders meeting the criteria established in the administrative rules of the Idaho Board of Education for school districts. Contract providers must assist ~~*students*~~ juvenile offenders who successfully complete GED testing with a minimum standard average score of four hundred fifty (450) and earn a credit in United States Government to apply for an Idaho ~~*High School Equivalency Certificate (*~~HSE~~*)*~~ from the Idaho Department of Education. All GED testing and HSE application fees will be paid by the contract provider. Test results shall be submitted to the department's education records manager at the juvenile correctional center in Nampa within ten (10) days after the receipt of the scores. ~~*(4-6-05)*~~( )

08. Special Education Services. (4-6-05)

a. The contract provider shall ensure that the special educational needs of juvenile offenders are addressed. The contract provider's in-house program or cooperating ~~*LEA*~~ local education agency program must comply with ~~*the federal*~~ Section 504 and the IDEA, as well as any other applicable state or federal laws. Under no circumstances shall the contract provider or its teaching staff make modifications in the juvenile offender's Section 504 or the IDEA educational program without conducting a Child Study Team meeting in consultation with the department's educational coordinator or designee. ~~*(4-6-05)*~~( )

b. Contract providers must make every reasonable effort and thoroughly document all efforts to contact parents or guardians of juvenile offenders identified as eligible for special education. If it is not possible to involve the natural parents or guardians, a surrogate parent must be appointed by the agency providing special educational services. This surrogate cannot be the director or other employee of an agency, institution, or community-based residential facility who is involved in providing care or education to a juvenile offender, or an employee of a state agency or agency volunteer, such as caseworker, social worker, or court-appointed special advocate who has been appointed by the state to provide for the welfare of the student. A surrogate parent is used only for special educational requirements and has no other legal authority. ~~*(4-6-05)*~~( )

c. Contract providers may choose to utilize the department's special education software for managing special education paperwork. If this option is selected, an e-mail to the education records manager at the juvenile correctional center in Nampa will be required stating that the required documents have been completed in the software program. It will not be necessary to mail hard copies of the documents. ( )

09. Standards for Instructional Time. Contract providers must assure that the school day is consistent with at least the minimum standard established for high schools by the Northwest Association of Schools and of Colleges and Universities. The length of the school day will further meet all requirements established by state and federal laws, regulations, and accreditation standards. Contract providers must provide an appropriate educational or vocational program for each juvenile offender for twelve (12) months of the year. At a minimum, this involves four (4) hours per day, five (5) days per week throughout the full calendar year. Juvenile offenders involved in any disciplinary process shall not be denied their right to education and other related services. If security or other related concerns are present that may prohibit a juvenile offender's participation in educational programming, an education~~*al*~~ plan review will be

completed and documented in an incident report. If the juvenile offender is eligible for services under the IDEA or Section 504, a Child Study Team will meet to make a determination as to whether or not the behavior is a result of the juvenile offender's handicap. All due process procedures will be followed according to the administrative rules for special education. ~~*(4-6-05)*~~(____)

10. Educational Records and Confidentiality. (4-6-05)

a. Educational records shall be maintained by the contract provider at all times in accordance with FERPA. At a minimum, the following information shall be included in the record: (4-6-05)

i. Subjects taken; (4-6-05)

ii. Grades by subject and explanation of the grading system; (4-6-05)

iii. Units of credit with explanation; (4-6-05)

iv. Attendance records; and (4-6-05)

v. Any standardized test scores. (4-6-05)

b. Reports of the juvenile offender's educational progress (report cards) shall be provided ~~*in the manner and within the time periods specified in these rules. At a minimum, this requires the documentation of monthly progress notes and a written progress report every second month*~~ to the education records manager at the juvenile correctional center in Nampa within ten (10) days after the end of the school's grading periods (midterm, semester, trimester, etc.). ~~*(4-6-05)*~~(____)

c. Contract providers must ensure that juvenile offender educational files are consistently maintained to ensure compliance with FERPA. ~~*(4-6-05)*~~(____)

d. When a juvenile offender is released from department custody or transferred, the permanent education file shall be updated by the department's education records technician. The contract providers will provide final withdrawal grades and credits within twenty-four (24) hours or next working day after the juvenile offender is released from department custody or transferred. The department will provide access to software programs to contract providers for recording courses and grades. When contract providers choose to use the software programs they need not send the department report cards; they need only assure all grades are entered through the software program at the end of each grading period. The contract providers shall send the education records manager at the juvenile correctional center in Nampa an e-mail advising that the final grades have been entered into the software program. Working educational files shall be returned to the juvenile correctional center in Nampa within ten (10) business days of the juvenile offender's release from department custody or transfer. ~~*(4-6-05)*~~(____)

301. -- 319. (RESERVED).

320. PRIVACY OF MEDICAL RECORDS AND INFORMATION.

Confidentiality of personal health information of each juvenile offender shall be maintained in accordance with the Privacy Regulations promulgated under HIPAA of 1996 or, if more stringent, the laws of the state of Idaho. Compliance with these regulations is the responsibility of the contract provider. Staff shall be provided information about a juvenile offender's medical condition only when that knowledge is necessary for the performance of their job duties. ~~(4-6-05)~~(____)

01. Privacy Officer. The contract provider shall appoint a privacy officer to oversee that the control and maintenance of all juvenile offender health and medical records is in compliance with the federal Privacy Regulations, 45 Code of Federal Regulations Sections 160 and 164. ~~(4-6-05)~~(____)

02. Separate Records. All juvenile offender medical and health records shall be kept in files that are physically separated from other juvenile offender files and information, and under a system of security against unauthorized access. ~~(4-6-05)~~(____)

321. PROVISION OF MEDICAL SERVICES.

01. Medical Care. Each juvenile offender shall be provided with medical, dental, optical, mental health, emergency or any other related health services while in the contract provider's care. Each contract provider shall have access, on a twenty-four (24) hour basis, to a licensed general hospital, clinic or physician, psychiatrist, and dentist to provide juvenile offenders with professional and qualified physical or mental health services, including medications. Health, mental health, and suicide risk screening must be provided within two (2) hours of a juvenile offender's admission to a program. Comprehensive and professional health and mental health assessments must be provided by the contract provider within thirty (30) calendar days of admission, unless these are provided by the department. ~~(4-6-05)~~(____)

02. Medical Consent. As part of the admission process, the contract provider must have a copy of the department's Release of Information and Consent form signed by a juvenile offender's parent, guardian, or committing authority. The consent form shall be filed in the juvenile offender's medical and case files maintained by the contract provider. ~~(4-6-05)~~(____)

03. Emergency Medical Treatment. In cases of emergency medical treatment requiring signed authorization for juveniles in the custody of the department, reasonable efforts must be made to obtain the consent of the parent or guardian. The signature of only one (1) parent or guardian is sufficient to form consent or authorization. Should the parent or guardian not be available or refuses to sign, the authorization may be signed by the department's regional R.N. or designee. This does not restrict the contract provider from taking action in life and death situations. (4-6-05)

04. Reimbursement Sources. The contract provider shall utilize private insurance or Medicaid, if available, for funding medical, dental, optical, mental health, or related services, and pharmaceutical products for any juvenile offender. The contract provider shall not seek reimbursement from private insurance or Medicaid for health services that are the fiscal responsibility of the contract provider pursuant to its contract with the department. Any health services not listed in these rules, other than emergency treatment, which was not approved in advance by the department's regional R.N. or designee, will be at the expense of the contract

provider. ~~*(4-6-05)*~~(____)

322. ADMISSION AND ANNUAL HEALTH SERVICES AND TREATMENT RECORDS.

01. Compliance with Child Care Licensing Rules. Admission and annual health services shall be provided to juvenile offenders in accordance with the child care licensing rules of the Idaho Department of Health and Welfare, unless otherwise provided in these rules. ~~*(4-6-05)*~~(____)

02. Prior Approval. No prior approval or review from the department's regional R.N. is required for admission and annual health services. Examples of admission and annual health services for which no prior approval or review is required are: (4-6-05)

a. Admission physical exams, including STD exams and treatment, as well as PAP smears; (4-6-05)

b. Admission dental exams, including x-rays (no Panorex), and cleanings (no sealants); (4-6-05)

c. Admission eye exams and glasses, if needed; (4-6-05)

d. Annual physical exams, including STD exams and treatment, PAP smears; (4-6-05)

e. Annual dental exams with x-rays (no Panorex), and cleanings; and (4-6-05)

f. Annual eye exams, if needed, and new glasses only if needed. (4-6-05)

03. Medical Records. Any time a juvenile offender receives treatment under this section or for any similar service, the contract provider shall retain the original medical record regarding treatment and send a copy to the department's regional R.N. immediately to ensure that accurate and current health records are maintained for each juvenile offender. ~~*(4-6-05)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

324. COMMUNICABLE DISEASES.

01. Policies. (4-6-05)

a. The contract provider shall establish policies and procedures for serving juvenile offenders with infectious diseases such as tuberculosis, hepatitis, and HIV or AIDS. These policies and procedures should address the management of communicable diseases, provide an orientation for new staff and juvenile offenders concerning the diseases, and ongoing education for staff and juvenile offenders regarding these diseases. Policies and procedures should be updated as new information becomes available. Individual health information or counseling will

be made available by a qualified health professional for juvenile offenders diagnosed with a communicable disease. ~~*(4-6-05)*~~(____)

b. The contract provider shall comply with the child care licensing rules of the Idaho Department of Health and Welfare regarding universal precautions. (4-6-05)

02. HIV Testing. In accordance with law, a juvenile offender over age fourteen (14) may request that he be tested for the presence of HIV. Any such juvenile offender requesting to be tested should be taken to a public health facility or, if available, a facility which accepts Medicaid reimbursement for administration of the test. ~~*(4-6-05)*~~(____)

03. Examinations. Examinations shall be performed on any juvenile offender by medical professionals for all symptomatic cases of communicable diseases such as tuberculosis, ova and parasites, infectious hepatitis, and sexually transmitted diseases. Juvenile offenders will be tested and, if indicated, treated. ~~*(4-6-05)*~~(____)

04. Confidentiality. Confidentiality shall be maintained. (4-6-05)

325. PREGNANCY.

01. Individual ~~*Treatment*~~ Medical Plan. Within the individual ~~*treatment*~~ medical plan, specific goals and objectives will be developed when a pregnancy has been diagnosed. The plan shall be based on the orders of the juvenile offender's community obstetric physician and shall include special care, location for delivery, regular medical check-ups, and special dietary and recreational needs. A copy of the individual ~~*treatment*~~ medical plan will be sent to the department's regional R.N. ~~*(4-6-05)*~~(____)

02. Parenting Classes. Parenting classes shall be an integral part of the individual ~~*treatment*~~ medical plan for all pregnant female juvenile ~~*females*~~ offenders. This service should also be offered as a priority to male juvenile ~~*males*~~ offenders in department custody who are already fathers or whose spouse or girlfriend is expecting a child. ~~*(4-6-05)*~~(____)

03. Medicaid Reimbursement. Medical services relating to pregnancy shall be provided by a physician and hospital accepting Medicaid reimbursement, unless medical expenses are paid by the juvenile offender's family. ~~*(4-6-05)*~~(____)

04. Infant Care. When an infant is delivered and the mother continues in department custody, the infant shall be placed with an appropriate family member or in the temporary care of the Family and Children Services Division of the Idaho Department of Health and Welfare, subject to any necessary court approval. At no time shall the infant remain in the contract provider's facility. (4-6-05)

326. REFUSAL OF TREATMENT.

01. Refusal of Recommended Treatment by Physician. If a juvenile offender chooses to refuse treatment or medication recommended by a physician, the juvenile offender must sign a detailed statement refusing this care. A contract provider staff member must witness the juvenile offender's signature. This refusal form will be filed in the juvenile offender's medical

record. ~~*(4-6-05)*~~(____)

02. Where Refusal Poses Significant Risk. If a juvenile offender refuses a treatment or medication for a condition which poses a significant risk of death or permanent physical impairment, the contract provider shall issue its approval for the immediate administration of the medical treatment or medication in accordance with standard practice. If danger to the juvenile offender is not imminent, the contract provider shall contact the clinical services administrator and notify the department's regional R.N. of the juvenile offender's refusal. ~~*(4-6-05)*~~(____)

327. USE OF MEDICATIONS.
A program shall have written policies and procedures governing the use and administration of medication to juvenile offenders. Policies shall conform to all applicable laws and regulations including, but not limited to, those of the Idaho Department of Health and Welfare. If initiating or modifying any medication, the department's regional R.N. must be notified. ~~*(4-6-05)*~~(____)

01. Psychotropic Medication. When psychotropic medication has been prescribed to a juvenile offender by a licensed physician, nurse practitioner, or physician's assistant, the contract provider shall notify the department's regional R.N., the juvenile offender's parent or guardian, the juvenile services coordinator, and the juvenile probation officer within three (3) business days. The notice shall include: ~~*(4-6-05)*~~(____)

a. The name of the prescribed medication; and (4-6-05)

b. The name and phone number of the doctor, nurse practitioner, or physician's assistant, who can explain the reason the medication was prescribed and any possible side effects. (4-6-05)

02. Reason for Administering Medication. The contract provider shall have staff available to explain to a parent or guardian, the juvenile services coordinator, and the department's regional R.N., the reason for making a referral to a physician who has prescribed psychotropic medication. The contract provider shall assure that any physician prescribing psychotropic medication is willing to discuss with a parent or guardian and department staff the reason the psychotropic medication was prescribed and the potential side effects of the medication. (4-6-05)

328. SUICIDE PRECAUTIONS.
All contract providers must have a written plan for responding to juvenile offenders who present a risk of suicide. The procedure shall, at a minimum, include a process for determination or assessment of suicidal behavior and risk, a procedure for contacting appropriate health authorities and the department, and a plan of direct supervision of a juvenile offender until a suicide crisis has ended. A suicide risk screening must be completed on every juvenile offender within two (2) hours of admission. ~~*(4-6-05)*~~(____)

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS

05.01.02 - RULES AND STANDARDS FOR SECURE JUVENILE DETENTION CENTERS

DOCKET NO. 05-0102-0701

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 20-504(2), 20-504(9), 20-504(11), 20-504(14), 20-531(4) Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 113 and 114.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy Bishop, Deputy Attorney General, at 334-5100, extension 384.

DATED this 2nd day of November, 2007.

Nancy Bishop
Deputy Attorney General
Idaho Department of Juvenile Corrections
400 N. 10th St., 2nd Floor
P.O. Box 83720
Boise, ID 83720-0285
Phone: 334-5100, ext. 384
Fax: 334-5120

DEPARTMENT OF JUVENILE CORRECTIONS ***Docket No. 05-0102-0701***
Rules & Standards for Secure Juvenile Detention Centers ***PENDING RULE***

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Section(s) Sections 20-504(2), 20-504(9), 20-504(11), 20-504(14), 20-531(4), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

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:

While this chapter was revised and approved during the 2007 legislative session, there are two corrections that should be made, appropriately state that a certificate is issued to juvenile detention centers instead of a license, and to correct an error referencing female juvenile offenders.

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 IDAPA 04.11.01.811, negotiated rulemaking was not conducted because a representative from the Idaho Association of Counties Juvenile Justice Administrators approved the proposed corrections.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy Bishop, Deputy Attorney General, at 334-5100, extension 384.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 23rd day of August, 2007.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

201. DEPARTMENT PREPARED WRITTEN REPORT OR THEIR AGENTS. Department representatives~~,~~ shall prepare a written report of each inspection within thirty (30) days following such inspection and provide copies to the appropriate detention center administrator with copies to the governing body and the county attorney. The report will additionally be submitted to the director of the Idaho Department of Juvenile Corrections for consideration and review of the issuance or renewal of a ~~*license*~~ certificate. ~~*(3-30-07)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

224. DETENTION CENTER SECURITY.

01. Security and Control Policy. The detention center's policy and procedures manual shall contain all procedures for detention center security and control, with detailed instructions for implementing these procedures, and are reviewed at least annually and updated as needed. The manual shall be made available to all staff. (3-30-07)

02. Personal Observation. The detention center shall have written policy and procedures which detention center policy and procedures shall govern the observation of all juvenile offenders and shall, at a minimum, require direct care staff to personally observe all juvenile offenders every thirty (30) minutes on an irregular schedule and the time of such checks shall be logged. More frequent checks should be made of juvenile offenders who are violent, suicidal, mentally ill, or who have other special problems or needs warranting closer observation. (3-30-07)

03. Cross Gender Supervision. The detention center shall have written policy and procedures governing supervision of female juvenile offenders by male employees and male juvenile offenders by female employees which shall be based on privacy needs and legal standards. Except in emergencies, detention center employees shall not observe juvenile offenders of the opposite sex in shower areas. Reasonable accommodation of privacy needs shall be observed. ~~*(3-30-07)*~~( )

04. Head Counts. The detention center shall have written policy and procedures which shall outline a system to physically count or account for all juvenile offenders, including juvenile offenders on work release, educational release, or other temporary leave status who may be absent from the detention center for certain periods of the day. At least three (3) documented counts shall be conducted every twenty-four (24) hours. At least one (1) count shall be conducted each shift and there shall be at least four (4) hours between each count. (3-30-07)

05. Camera Surveillance. Camera surveillance equipment should not be used in place of the personal observation of juvenile offenders. (3-30-07)

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS

05.01.03 - RULES OF THE CUSTODY REVIEW BOARD

DOCKET NO. 05-0103-0701

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 20-520(1)(q), 20-532, 20-504(11), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The purpose of the pending rule is to formalize the use of Custody Review Board member alternates, clarify the board's power and duties regarding determinations, and add a subsection about reconsiderations as it relates to the board's determinations.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 115 through 120.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy Bishop, Deputy Attorney General, at 334-5100, extension 384.

DATED this 2nd day of November, 2007.

Nancy Bishop
Deputy Attorney General
Idaho Department of Juvenile Corrections
400 N. 10th St., 2nd Floor
P.O. Box 83720, Boise, ID 83720-0285
Phone: 334-5100, ext. 384 / Fax: 334-5120

DEPARTMENT OF JUVENILE CORRECTIONS ***Docket No. 05-0103-0701***
Rules of the Custody Review Board ***PENDING RULE***

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Section(s) 20-520(1)(q), 20-532, 20-504(11), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose of the proposed rulemaking is to formalize the use of Custody Review Board member alternates, clarify the board's power and duties regarding determinations, and add a subsection about reconsiderations as it relates to the board's determinations.

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 IDAPA 04.11.01.811, negotiated rulemaking was not conducted because proposed changes are either ministerial or to correspond to legislative amendments.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy Bishop, Deputy Attorney General, at 334-5100, extension 384.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 23rd day of August, 2007.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

000. LEGAL AUTHORITY.

01. Section 20-520(1)(~~q~~r), Idaho Code. Pursuant to Section 20-520(1)(~~q~~r), Idaho Code, the Idaho Department of Juvenile Corrections shall adopt rules implementing the Custody Review Board and operations and procedures of such board. ~~(5-3-03)~~(____)

02. Section 20-532, Idaho Code. Pursuant to Section 20-532, Idaho Code, a juvenile offender committed to a secure facility shall remain until the offender reaches nineteen (19) years of age, is retained for extended custody pursuant to Section 20-520(1)(~~q~~r), Idaho Code, or is released or discharged. ~~(5-3-03)~~(____)

03. Section 20-504(11), Idaho Code. Pursuant to Section 20-504(11), Idaho Code, the department shall have authority to adopt such administrative rules pursuant to the procedures provided in Title 67, Chapter 52, Idaho Code, as are deemed necessary or appropriate for the function of the department and the implementation and administration of the Juvenile Corrections Act. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEALS.
This chapter does not provide for appeal of the ~~*opinion*~~ determination of the Custody Review Board. ~~(5-3-03)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

01. Board. The Custody Review Board of the Idaho Department of Juvenile Corrections. (5-3-03)

02. Case Management Team. A team consisting of juvenile services coordinator (JSC), case manager, and juvenile probation officer (JPO) who provide input in setting and following through with treatment goals. (5-3-03)

03. Case Manager. Department staff assigned to directly manage a juvenile's case, such as a group leader at a state institution; or, if a juvenile is placed at a contract program, the contract provider's employee assigned to directly manage a juvenile's case. (5-3-03)

04. Classification. A process for determining the needs and requirements of juveniles

for whom commitment has been ordered, and for assigning them to housing units or programs according to their needs and existing resources. (5-3-03)

05. Commit. Commit means to transfer legal custody. (5-3-03)

06. Court. Means any Idaho district court or magistrate's division thereof. (5-3-03)

07. Director. The director of the Idaho Department of Juvenile Corrections. (5-3-03)

08. Department. The Idaho Department of Juvenile Corrections. (5-3-03)

09. Extended Time in Custody. Any period of time a juvenile remains in custody after age nineteen (19) and not to exceed age twenty-one (21). (5-3-03)

10. Incident Report. A written document reporting an unusual occurrence or special event such as the discovery of contraband, use of physical force, use of chemical agents, discharge of firearms, and action taken including notation of strip and cavity searches. (5-3-03)

11. Juvenile. A person less than eighteen (18) years of age or who was less than eighteen (18) years of age at the time of any act, omission or status bringing the person within the purview of the Juvenile Corrections Act. (5-3-03)

12. Juvenile Records. Information concerning the individual's delinquent or criminal, personal, and medical history and behavior and activities while in custody, including but not limited to commitment papers, court orders, personal property receipts, visitors' lists, type of custody, disciplinary infractions and actions taken, grievance reports, work assignments, program participation, and miscellaneous correspondence. (5-3-03)

13. Juvenile Services Coordinator (JSC). An employee of the department who is assigned to a particular juvenile as the case worker, ~~*certified*~~ licensed in social work. ~~*(5-3-03)*~~(____)

14. Legal Guardian. A person appointed as guardian of a minor under the laws of Idaho. For the purposes of this chapter, legal guardian does not include and shall not be construed to include the owner, operator or the agent of an owner, or operator of a detention center, observation and assessment center, secure facility, residential facility, or other facility having temporary or long-term physical custody of the juvenile offender. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

101. POWERS AND DUTIES.

01. Review. The Custody Review Board is empowered by Sections 20-520(1)(~~a~~r) and 20-532, Idaho Code, to review the cases of juveniles in the custody of the department whose cases have been referred to the board according to Section 201 of these rules. ~~*(5-3-03)*~~(____)

02. Board ~~*Opinions*~~ Determinations. After conducting its review, the Custody Review Board shall advise the department's director whether~~*, in their opinion,*~~ it has determined that the juvenile before ~~*them*~~ it needs an extended time in custody to address accountability, community protection, and competency. ~~*(5-3-03)*~~(____)

03. Indeterminate Sentence Remains. The Custody Review Board cannot direct the placement~~,~~ or treatment ~~*or final release decision*~~ of a juvenile in the department's custody, and any determination by the board that extended time in custody is needed by a juvenile shall not create a determinate sentence of any kind. ~~*(5-3-03)*~~(____)

04. Release Date for Juveniles. If a juvenile has appeared before the Custody Review Board and the board has concluded that he not be retained in custody, the director shall set a release date for the juvenile, as follows: (4-6-05)

a. If a juvenile appears before the board prior to his nineteenth birthday, but before a reasonable and appropriate release plan has been finalized, the department may retain the juvenile long enough to finalize those plans, but not to exceed forty-five (45) days after the juvenile's nineteenth birthday. (4-6-05)

b. In all other cases, the department may retain the juvenile long enough to finalize a reasonable and appropriate release plan, but not to exceed forty-five (45) days after the ~~*board's opinion*~~ director's signed order has been ~~*rendered*~~ transmitted or delivered to the facility/JSC or any other department appointee. ~~*(4-6-05)*~~(____)

102. STRUCTURE AND COMPOSITION OF THE CUSTODY REVIEW BOARD.

01. Board Members. (5-3-03)

a. The board is composed of four (4) members, each of whom shall be appointed by the director of the department. The director may also appoint two (2) members to serve as alternates on the board, each of whom shall be appointed for a term of two (2) years. ~~*(5-3-03)*~~(____)

b. The director shall select appointees who represent a variety of juvenile justice experiences and victim perspectives, or who are otherwise qualified. (5-3-03)

02. Terms of Appointment. (5-3-03)

a. The first term of appointment shall be staggered as follows: (5-3-03)

i. An appointee shall serve for a term of one (1) year; (5-3-03)

ii. An appointee shall serve for a term of two (2) years; (5-3-03)

iii. An appointee shall serve for a term of three (3) years; and (5-3-03)

iv. An appointee shall serve for a term of four (4) years. (5-3-03)

b. The terms of these initial board members shall be identified in each appointment. (5-3-03)

c. Except for the alternates, ~~T~~the director shall fill each succeeding vacancy for terms of four (4) years. Vacancies in the board for unexpired terms shall be by appointment by the director for the remainder of the term. All appointees may be reappointed. ~~*(5-3-03)*~~(____)

03. Compensation of Board Members. Members shall be compensated as provided by Section 59-509(b), Idaho Code. They shall serve without honorarium or compensation but shall be reimbursed for actual and necessary expenses, subject to the limits provided in Section 67-2008, Idaho Code. (5-3-03)

04. Removal from Board. The director may remove any member from the board for neglect of duty required by law, for incompetence, for breaches of confidence or for unprofessional or dishonorable conduct. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

201. REFERRAL OF CASES TO THE BOARD.
The Custody Review Board shall review cases referred to it and will advise the director whether~~, *in* it*s opinion,*~~ has determined that extended time in custody is necessary for a juvenile to address competency, accountability and community protection. ~~*(5-3-03)*~~(____)

01. Cases Eligible for Referral. A juvenile's case is eligible for referral to the board in either of the following circumstances: (4-6-05)

a. If the juvenile is no more than six (6) months from his nineteenth birthday and one (1) or more members of the juvenile's case management team believes that the juvenile needs extended time in custody beyond that juvenile's nineteenth birthday; or (4-6-05)

b. If the juvenile is past age nineteen (19), has already been retained in the department's custody based on an earlier ~~*opinion*~~ determination of the Custody Review Board, and one (1) or more members of a juvenile's case management team, the Custody Review Board, or the director of the department believes that an additional case review is in the best interest of the juvenile or others affected. ~~*(4-6-05)*~~(____)

02. Juvenile Has Not Appeared Before the Custody Review Board. Any juvenile who has not appeared before the Custody Review Board in person or by video conference prior to the date of his nineteenth birthday shall be released from custody on that date or as soon thereafter as a reasonable release plan can be determined and finalized. The final release date shall not exceed forty-five (45) days after the juvenile's nineteenth birthday. (4-6-05)

03. Hearing Schedules. Once a case is referred, the board shall set a date for the review hearing. Unless the board decides otherwise, no case will be heard more often than every six (6) months. (5-3-03)

04. Written Submissions. All written documents and letters to be considered at a particular hearing must be submitted fourteen (14) calendar days in advance of the scheduled hearing in order to ensure that they will be considered. Other documents may be allowed after this deadline by unanimous consent of the board members present. Documents may include: (5-3-03)

a. Progress reports to the courts pursuant to Sections 20-532 and 20-540, Idaho Code; (5-3-03)

b. Report on original offenses leading to commitment plus order for commitment and orders of judgment; (5-3-03)

c. Written recommendations from each member of the treatment team; (5-3-03)

d. Polygraph results and written conclusions and recommendations from the professionals administering these tests; (5-3-03)

e. Psychosocial or psychosexual evaluations; (5-3-03)

f. Victim's written statement; (5-3-03)

g. Juvenile's written statement; (5-3-03)

h. Initial classification; (5-3-03)

i. Custody level assessment at case review; and (5-3-03)

j. Any other pertinent information. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

300. ~~*OPINIONS OF*~~ BOARD DETERMINATIONS.
All ~~*opinions*~~ determinations ~~*of*~~ by the Custody Review Board regarding a juvenile shall be prepared in writing and given to the director of the Idaho Department of Juvenile Corrections. ~~*(5-3-03)*~~(____)

01. Confidentiality. All determinations ~~*or opinions*~~, including any written documents from any source regarding the juvenile's case, will be held by the Idaho Department of Juvenile Corrections in the juvenile's case management file. ~~*(5-3-03)*~~(____)

02. ~~*Opinion*~~ Board's Determination to the Director. The board's written ~~*opinion*~~ determination concerning a juvenile's release or the juvenile's need to have extended time in custody shall be given to the director no later than thirty (30) calendar days after the date the board receives the last documents or interviews the last witness pertaining to the case. ~~*(5-3-03)*~~(____)

03. Reconsideration. The board may reconsider its determination in any case only if

the vote based on the reconsideration is made before the written determination is given to the director of the Idaho Department of Juvenile Corrections. Only the members who heard the case may discuss or vote on any reconsideration of the determination. ( )

a. Any member of the board who was present for and heard the juvenile's case may call for a vote to reconsider the board's determination by making a request through the board chair. ( )

b. Any reconsideration may occur by teleconference, in person, by videoconference, or any combination thereof. ( )

c. The chair will call for a motion to reconsider, and a vote. ( )

d. The determination will then be given to the director in the same manner as is specified in Subsection 300.02, of these rules. ( )

0~~3~~4. Indeterminate Sentence Remains. If the board determines that a juvenile needs to stay for an extended time in custody of the department, that ~~*opinion*~~ determination does not create a determinate sentence of any kind, and the director shall still have the authority to release the juvenile at any later time deemed appropriate. ~~*(5-3-03)*~~( )

04~~5~~. Official Record of Hearing/Review. The official record of a hearing or case review will be the summary minutes of that hearing or review, once signed, and the original record will be maintained with records of the Idaho Department of Juvenile Corrections. (5-3-03)

0~~5~~6. Evaluation of Juvenile Cases. Juvenile cases are evaluated on the individual merits of each case. The board's evaluation of a case and a juvenile's need for extended time in custody shall not be based upon any predetermined hearing standard, criteria, or precedent. Factors that may be taken into account by the board include, but are not limited to: (5-3-03)

a. Seriousness of the crime; (5-3-03)

b. Prior criminal history of the juvenile, as well as prior commitments to the department; (5-3-03)

c. Progress or completion of program, treatment plan, accountability; (5-3-03)

d. Institutional history to include conformance to established rules, involvement in programs and overall behavior; (5-3-03)

e. Evidence of the development of a positive social attitude and the willingness to fulfill the obligations of a good citizen; and (5-3-03)

f. Information or reports regarding physical, psychological, or other conditions. (5-3-03)

301. -- 399. (RESERVED).

400. VICTIMS.
It is the policy of the Idaho Department of Juvenile Corrections and the Custody Review Board to respect the rights of victims of crime in Idaho, pursuant to the Idaho Constitution and statute. When a juvenile's case has been referred for review, the department shall be responsible for providing the board with a list of crime victims who were officially identified by the adjudicating court or prosecuting attorney. (5-3-03)

01. Notice to Victims. The board will notify identified victims of a juvenile's crime that a custody review hearing has been scheduled. These victims will also be notified of their right to submit written statements or information and their right to provide testimony. After the review proceeding, victims shall be notified of the board's determination regarding the custody of the juvenile. (5-3-03)

a. Notices of rights, hearings, the board's final ~~*opinion*~~ determinations, and any anticipated release documents will be sent to the victim of record at the last known address. It is the responsibility of the victim to provide any change of address. ~~*(5-3-03)*~~(____)

b. Victims may request that they not be notified or contacted. (5-3-03)

02. Victim Testimony. A victim may attend any and all custody review hearings pertinent to their case and to provide testimony. The victim may be allowed to testify before the board members during a hearing session but at a time separate from the actual hearing with the juvenile present. All testimony of a victim shall remain confidential. (5-3-03)

IDAPA 11 - IDAHO STATE POLICE

11.07.01 - RULES GOVERNING MOTOR VEHICLES - GENERAL RULES

DOCKET NO. 11-0701-0701

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-2901A and 49-901, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 5, 2007 Idaho Administrative Bulletin, Vol. 07-9, pages 78 through 82.

Changes between this pending rule and the proposed rule are: the cite to authority in Idaho Code has been corrected; definitions for "motor vehicles" and "highways" have been altered to align with the definitions in Idaho Code; and the "Standards for Idaho School Buses and Operations Manual" is incorporated by reference.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Lt. Bill Reese, (208) 884-7222.

DATED this 2nd day of October, 2007.

Colonel G. Jerry Russell, Director
Idaho State Police
700 S. Stratford
P. O. Box 700, Meridian, ID 83680-0700
208-884-7000 Fax 208-884-7090

IDAHO STATE POLICE ***Docket No. 11-0701-0701***
Rules Governing Motor Vehicles - General Rules ***PENDING RULE***

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Section(s) 67-2901A and 49-901, 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 September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The General Provision section of this rule references outdated Idaho codes and outdated federal standards, SAE standards, and other standards, codes and/or specifications. The outdated references in this section are being deleted and the current codes, standards, and/or specifications are being incorporated by reference

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:

There is no fiscal impact to the general fund from these rule changes.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the change to rule is to update mandatory references and reformat the rules in a manner to make them more readable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lt. Bill Reese, (208) 884-7222.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 1st day of August, 2007.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

IDAPA 11
TITLE 07
CHAPTER 01

11.07.01 - RULES GOVERNING MOTOR VEHICLES - GENERAL RULES

000. LEGAL AUTHORITY (RULE 0).
These rules adopting national safety codes and standards are promulgated pursuant to the authority granted to the Idaho State Police pursuant to Section 67- 2901~~(4)~~ and 49-901, Idaho Code. ~~(5-3-03)~~(____)

001. TITLE AND SCOPE (RULE 1).

01. Title. ~~*These rules are cited as*~~ The name of this chapter is IDAPA 11.07.01, "Rules Governing Motor Vehicles - General Rules." ~~(5-3-03)~~(____)

02. Scope. ~~*The rules apply to motor vehicles*~~ All owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with these rules *to the extent the rules are applicable*. ~~(5-3-03)~~(____)

002. WRITTEN INTERPRETATIONS (RULE 2).
~~*There are no written interpretations of these rules.*~~ The Director of *the* Idaho State Police is authorized to make and give informal interpretations of the terms and definitions found in the Idaho Code, this Department's rules applicable to motor vehicles and other filings relating to motor vehicles maintained by the Department pursuant to law. The Director may be contacted in writing at the Idaho State Police, PO Box 700, Meridian, Idaho 83680-0700, or may be reached by telephone at (208) 884-7200. For future rulemakings written interpretations in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking decision adopting these rules are published in the issues of the Idaho Administrative Bulletin proposing or adopting the rules. The Department reserves to itself the authority to issue formal declaratory orders construing these items. ~~(5-3-03)~~(____)

003. ADMINISTRATIVE APPEALS (RULE 3).
All administrative appeals under these rules are conducted under IDAPA 04.11.01 et. seq, "Idaho Rules of Administrative Procedure of the Attorney General." (5-3-03)

~~***004. INCORPORATION BY REFERENCE.***~~
~~*These rules do not incorporate any documents by reference.*~~ ~~(5-3-03)~~

00~~5~~4. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (RULE 4).

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (5-3-03)

02. Mailing Address. The mailing address for the ~~*central*~~ headquarters office is Idaho State Police, P.O. Box 700, Meridian, Idaho 83680. ~~*(5-3-03)*~~( )

03. Street Address. The ~~*central*~~ headquarters office of the Idaho State Police is located at 700 S. Stratford Drive, Meridian, Idaho 83642. ~~*(5-3-03)*~~( )

00~~6~~5. PUBLIC RECORDS ACT COMPLIANCE (RULE 5).
~~*These rules are public records available for inspection and copying at the department.*~~ All materials in motor vehicle rule files, except those that are exempt from disclosure pursuant to Idaho Code, are public records available for inspection, examination and copying. Investigatory records are not public records, but may be examined or disclosed by the object of the investigation pursuant to Section 9-335, Idaho Code. (5-3-03)

~~***007. 009. (RESERVED).***~~

0~~1~~06. DEFINITIONS (RULE 6).

01. Department. The "Department," as used herein, means the Idaho State Police. (7-1-93)

02. Director. The "Director," as used herein, means the Director of the Idaho State Police. (7-1-93)

***03. Motor Vehicle**. Will be the same as the definition found in Idaho Code 49-123(2)(g).* *( )*

***04. Highway**. Will be the same as the definition found in Idaho Code 49-109(h).( )*

007. CITATION (RULE 7).
The official citation of these rules is IDAPA 11.07.01.000 et seq. For example, this rule is cited as IDAPA 11.07.01.007. ( )

008. INCORPORATED BY REFERENCE (RULE 8).
Rules 20, 30, and 40 incorporate by reference various state and national safety codes and federal regulations. Each applicable rule identifies the issuing entity for each code or regulation and indicates where the incorporated materials may be obtained. Incorporated materials are also available for inspection and copying at the Headquarters Office of the Idaho State Police, listed in Rule 004. The following codes and standards are incorporated: ( )

01. Society of Automotive Engineers (SAE). The SAE Ground Vehicle Lighting Standards Manual and SAE standards are published by the Society of Automotive Engineers and

are available from SAE World Headquarters, 400 Commonwealth Drive, Warrendale, PA 15096-0001 and may be ordered by calling 1-877-606-7323 or on the worldwide web at http://store.sae.org/. ( )

02. Idaho State Department of Education, *Standards for Idaho School Buses and Operations Manual*. The *Standards for Idaho School Buses and Operations* Manual is published by the Idaho Department of Education, 650 West State Street, P.O. Box 83720, Boise, ID 83720-0027 and may be ordered by calling 1-208-332-6800 or downloaded from the worldwide web at http://www.sde.idaho.gov/Transportation/library.asp. ( )

03. Federal Regulations – 49 C.F.R. Parts 392, 393, and 571. These regulations are found in the Code of Federal Regulations, available from the U.S. Government Printing Office, Superintendent of Documents, Attn: New Orders, PO Box 37954, Pittsburgh, PA 15250-7954. The incorporated parts are also available on the worldwide web at http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1. ( )

009. -- 019. (RESERVED).

~~***011. GENERAL PROVISIONS.***~~

~~***01. General Rules**. Pursuant to Section 49-590(1), Idaho Code, the Director hereby adopts by reference the standards found in the "School Transportation Manual" approved by the Idaho State Department of Education as if set forth herein in full. (7-1-93)***~~

~~***02. Lighting Equipment**. Pursuant to Section 49-809A(4), Idaho Code, the Director hereby adopts by reference the standards found in the "School Transportation Manual" approved by the Idaho State Department of Education as if set forth herein in full. (7-1-93)***~~

~~***03. Certain Vehicles Required to Stop at All Railroad Crossings**. Pursuant to Section 49-673(3), Idaho Code, the Director hereby adopts by reference the requirements found in the "Federal Motor Carrier Safety Regulations, Subpart B, Section 392.10," as if set forth herein in full. (7-1-93)***~~

~~***04. Standards for Safety Helmets**. Pursuant to Section 49-761A(c), Idaho Code, the Director hereby adopts by reference the standards found in 49 C.F.R. Section 571.218, Standard No. 218, as if set forth herein in full. (7-1-93)***~~

~~***05. Standards and Specifications for Lighting Devices**. Pursuant to Section 49-830, Idaho Code, the Director hereby adopts by reference the standards and specifications set forth by the Society of American Engineers in the "1984 SAE Handbook, Chapter 21," as if set forth herein in full. (7-1-93)***~~

~~***06. Standards for Rear-Mounted Acceleration and Deceleration Lighting Systems (Use Optional)**. Pursuant to Section 49-820A(g), Idaho Code, the Director hereby adopts by reference the standards found in "Supplemental High Mounted Stop and Rear Turn Signal Lamps for Use on Vehicles Less Than 2032 MM Overall Width -- SAE J186 NOV82," as if set forth herein in full. (7-1-93)***~~

~~***07. Modulating Headlights for Motorcycles**. Pursuant to Section 49-830, Idaho Code, the Director hereby approves modulating headlights for use on motorcycles. Such headlights shall conform to the standards and specifications with regard to modulating headlights found in 49 C.F.R. Section 571.108, Standard 108, S4.6, which is hereby adopted by reference as if set forth herein in full. (7-1-93)*~~

~~***08. Standards for Devices Without Self-Contained Energy Sources**. Pursuant to Section 49-841, Idaho Code, the Director hereby adopts by reference the standards and specifications with regard to flares and warning devices found in 49 C.F.R. Section 571.125, Standard 125, as if set forth herein in full. (7-1-93)*~~

~~***09. Devices With Self-Contained Energy Sources**. Warning devices with self-contained energy sources permissible, under this chapter are limited to electric emergency lanterns, liquid burning emergency flares, and fusees. (7-1-93)*~~

~~***a.** Standards For Electric Emergency Lanterns -- Pursuant to Section 49-841, Idaho Code, the Director hereby adopts by reference the standards and specifications with regard to electric emergency lanterns found in "SAE J596," as if set forth herein in full. (7-1-93)*~~

~~***b.** Standards For Liquid Burning Emergency Flares -- Pursuant to Section 49-841, Idaho Code, the Director hereby adopts by reference the standards and specifications with regard to liquid burning emergency flares found in "SAE J597," as if set forth herein in full. (7-1-93)*~~

~~***c.** Standards for Fusees. (7-1-93)*~~

~~***10. Safety Practices and Standards for Automotive Air Conditioning Devices, Standards and Specifications**. Pursuant to Section 49-844, Idaho Code, the Director hereby adopts by reference the standards set forth in "Safety Practices For Mechanical Vapor Compression Refrigeration Equipment of Systems Used to Cool Passenger Compartment of Motor Vehicles -- SAE J639 OCT8l," as if set forth herein in full. (7-1-93)*~~

~~***012. BUILT IN LUGS.***~~

020. SOCIETY OF AUTOMOTIVE ENGINEERS (SAE) (RULE 20).
The Director incorporates by reference the SAE Ground Vehicle Lighting Standards Manual, 2006 edition, and SAE standards J586, J588, and J639. All owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with the applicable provisions of the SAE Ground Vehicle Lighting Standards Manual, 2006 edition, and SAE standards J586, J588, and J639. ( )

01. Standards and Specifications for Lighting Devices. Pursuant to Section 49-901(1), Idaho Code, the Director hereby incorporates by reference the standards and specifications set forth by the Society of American Engineers in the SAE Ground Vehicle Lighting Standards Manual, 2006 edition, as if set forth herein in full. ( )

02. Standards for Rear Mounted Acceleration and Deceleration Lighting Systems (Use Optional). The current standards found in "Supplemental High Mounted Stop and Rear Turn Signal Lamps for Use on Vehicles Less Than 2032 MM Overall Width -- SAE J586 and

J588," is found in Section 49-921, Idaho Code, as if set forth herein in full. ( )

03. Safety Practices and Standards for Automotive Air Conditioning Devices, Standards and Specifications. Pursuant to Section 49-901(7), Idaho Code, the Director hereby incorporates by reference the current standards set forth in "Safety Practices For Mechanical Vapor Compression Refrigeration Equipment of Systems Used to Cool Passenger Compartment of Motor Vehicles -- SAE J639," as if set forth herein in full. ( )

021. -- 029. (RESERVED).

030. IDAHO STATE DEPARTMENT OF EDUCATION, *STANDARDS FOR IDAHO SCHOOL BUSES AND OPERATIONS* MANUAL (RULE 30).
The Director incorporates by reference the standards found in the *November 1, 2006 "Standards for Idaho School Buses and Operations*" manual approved by the Idaho State Board of Education. All owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with the applicable standards found in the *"Standards for Idaho School Buses and Operations"* manual. ( )

01. General Rules. Pursuant to Section 49-901(8), Idaho Code, the Director hereby incorporates by reference the standards found in the *November 1, 2006 "Standards for Idaho School Buses and Operations*" manual approved by the Idaho State Department of Education as if set forth herein in full. ( )

02. Lighting Equipment. Pursuant to Section 49-901(2), Idaho Code, the Director hereby incorporates by reference the standards found in the *November 1, 2006 "Standards for Idaho School Buses and Operations*" manual approved by the Idaho State Department of Education as if set forth herein in full. ( )

031. -- 039. (RESERVED).

040. FEDERAL REGULATIONS - 49 C.F.R. PARTS 392, 393, AND 571 (RULE 40).
The Director incorporates by reference Title 49 of the Code of Federal Regulations, October 1, 2007 edition, Parts 392, 393, and 571. All owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with the applicable Parts found in Title 49 of the Code of Federal Regulations. ( )

01. Certain Vehicles Required to Stop at All Railroad Crossings. Pursuant to Section 49-648, Idaho Code, the Director hereby incorporates by reference the requirements found in Title 49 (49 C.F.R.) of the Code of Federal Regulations (Federal Motor Carrier Safety Regulations) Part 392, Subpart B, Section 392.10, as if set forth herein in full. ( )

02. Devices With Self Contained Energy Sources. Pursuant to Section 49-952, Idaho Code, the Director hereby incorporates by reference the standards and specifications with regard to Requirements for fusees and liquid burning flares found in 49 C.F.R., Part 393, Subpart H, Section 393.95. Warning devices with self-contained energy sources permissible, under this chapter are limited to liquid burning emergency flares, and fusees. ( )

03. Modulating Headlights for Motorcycles. Pursuant to Section 49-925, 49-901(3),

49-901(4), Idaho Code, the Director hereby approves modulating headlights for use on motorcycles. Such headlights shall conform to the standards and specifications with regard to modulating headlights found in 49 C.F.R. Section 571.108, Standard 108, S7.9.4, which is hereby adopted by reference as if set forth herein in full. ( )

04. Standards for Safety Helmets. Pursuant to Section 49-666, Idaho Code, the Director hereby incorporates by reference the standards found in 49 C.F.R. Section 571.218, Standard No. 218, as if set forth herein in full. ( )

05. Standards for Devices Without Self Contained Energy Sources. Pursuant to Section 49-952, Idaho Code, the Director hereby incorporates by reference the standards and specifications with regard to flares and warning devices found in 49 C.F.R. Section 571.125, Standard 125, as if set forth herein in full. ( )

0~~13~~41. -- 999. (RESERVED).

IDAPA 11 - IDAHO STATE POLICE

11.11.01 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL

DOCKET NO. 11-1101-0701

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-5107, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 222 through 248.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Trish Christy at (208) 884-7253.

DATED this 2nd day of November, 2007.

Jeffry J. Black
Executive Director
Idaho State Police/Peace Officer Standards and Training
700 S. Stratford Dr.
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7251/(208)
884-7295 (FAX)

IDAHO STATE POLICE ***Docket No. 11-1101-0701***
Rules of the Idaho Peace Officer Standards & Training Council ***PENDING RULE***

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Section 19-5107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

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:

Clarify to whom the rules apply; update and add definitions; clarify existing rules; update minimum vision standards; establish how long a medical exam is valid; allow open campus for select basic academies; allow vo-tech program coordinators to be eligible for certification; allow Idaho POST-certified peace officers to maintain their certifications while employed as tribal officers with federally recognized Indian tribes within Idaho; remove limitation on college credits; establish challenge procedure for vo-tech law enforcement program graduates.

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 IDAPA 04.11.01.811, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting and approval of the rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Trish Christy at (208) 884-7253.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 23rd day of August, 2007.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," IDAPA 11, Title 11, Chapter 01. (3-15-02)

02. Scope. These rules constitute the minimum standards of training, education, employment, and certification of peace officers, ~~*and*~~ county detention officers, juvenile detention officers, juvenile probation officers, correction officers, and adult probation and parole officers in Idaho. ~~*(3-15-02)*~~(____)

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, ~~*this agency has*~~ any written statements which might pertain to the interpretation of the rules of this chapter~~,~~ or to the documentation of compliance with the rules of this chapter~~. *The document is*~~ are available for public inspection and copying at cost at the Idaho State Police, Peace Officer Standards and Training ~~*Office*~~, 700 South Stratford Drive, P.O. Box 700, Meridian, Idaho, 83680-0700.
~~*(3-15-02)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.
~~*IDAPA 11.11.01 incorporates by reference the Law Enforcement Code of Ethics as revised in 1989 by the International Association of Chiefs of Police, 515 North Washington Street, Alexandria, VA 22314.*~~ There are no documents that have been incorporated by reference into this rule.
~~*(4-2-03)*~~(_____)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

01. Act. Title 19, Chapter 51, of the Idaho Code. (4-5-00)

02. Adult Probation and Parole Officer. Any employee of the Idaho Department of Correction who is responsible for the supervision of offenders on probation or parole. (3-30-07)

03. Agency. A law enforcement agency which is a part of or administered by the state or any political subdivision thereof and which is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; a juvenile detention center; a juvenile probation department; the Idaho Department

of Correction; or a private prison contractor of the State Board of Correction that is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the facility. ~~(4-5-00)~~( )

04. **Agency Head**. A chief of police of a city, sheriff of a county, or chief administrator of any law enforcement agency of the state of Idaho or any political subdivision thereof who is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; the chief administrator of a juvenile detention center; the chief administrator of a juvenile probation department; the director of the Idaho Department of Correction; or the chief administrator of a private prison contractor of the State Board of Correction that is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the facility. ~~(4-5-00)~~( )

05. **Applicant**. Any person applying to participate in a POST training program or applying for POST certification. ( )

06. **Basic Adult Probation and Parole Academy**. A basic course of instruction for Adult Probation and Parole Officers as recognized by POST Council. ( )

07. **Basic Correction Academy**. A basic course of instruction for Correction Officers as recognized by POST Council. ( )

08. **Basic Detention Academy**. A basic course of instruction for Detention Officers as recognized by POST Council. ( )

09. **Basic Juvenile Detention Academy**. A basic course of instruction for Juvenile Detention Officers as recognized by POST Council. ( )

10. **Basic Juvenile Probation Academy**. A basic course of instruction for Juvenile Probation Officers as recognized by POST Council. ( )

11. **Basic Patrol Academy**. A basic course of instruction for Patrol Officers as recognized by POST Council. ( )

~~05~~12. **College Credit**. A unit of work towards a baccalaureate or vocational degree accepted by a college or university of higher education accredited by the Northwest Association of Schools and Colleges or other equivalent accrediting agency. (7-1-93)

~~06~~13. **Correction Officer**. Any employee of an Idaho Department of Correction facility or private prison contractor of the State Board of Correction who is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the correction facility. (3-30-07)

14. **Correction Standards and Training Council**. An advisory group to the POST Council that is comprised of members from academia and law enforcement agencies. The purpose of the Correction Standards and Training Council is to advise POST Council in the planning, development, and operation of the Basic Correction Academy and the Basic Adult Probation and Parole Academy. ( )

15. **Council**. The Idaho Peace Officer Standards and Training Council. ( )

~~07~~16. County Detention Officer. An employee in a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates. (4-5-00)

~~08~~17. Crime of Deceit. Any offense described in Section 18-1301 et seq., Idaho Code, (Bribery), Section 18-1401 et seq. (Burglary), Sections 18-1901 (Fictitious Stock Subscription), 18-1902 (Exhibition of False Papers to Public Officers), 18-1903 (Use of False Name in Prospectus), 18-1904 (Illegal Dividends and Reductions of Capital), 18-1905 (Falsification of Corporate Books), 18-1906 (Fraudulent Reports by Officers), 18-2202(1) (Computer Crime), 18-2302 (False Swearing as to Qualifications as Voter), 18-2304 (Procuring Illegal Votes), 18-2305 (Intimidation, Corruption and Frauds), 18-2306 (Illegal Voting or Interference with Election), 18-2307 (Attempting to Vote When Not Qualified or to Repeat Voting), 18-2309 (Officers Attempting to Change Result), 18-2310 (Forging or Counterfeiting Returns), 18-2311 (Adding to or Subtracting From Votes), 18-2316 (Tampering with Certificates of Nomination or Ballots), 18-2320 (Bribery of Electors), Section 18-2401 et seq. (Theft), Section 18-2601 et seq. (Falsifying Evidence -- Offering Forged or Fraudulent Documents in Evidence), Section 18-2701 et seq. (Bribery of Executive Officers), Sections 18-3105 (False Statement by Commission Merchant, Broker, Agent, Factor or Consignee to Principal or Consignor), 18-3106 (Drawing Check Without Funds -- Drawing Check With Insufficient Funds -- Prima Facie Evidence of Intent -- Standing of Person Having Acquired Rights -- Probation Conditions), 18-3123 (Forgery of a Financial Transaction Card), 18-3124 (Fraudulent Use of a Financial Transaction Card), 18-3125 (Criminal Possession of Financial Transaction Card and FTC Forgery Devices), 18-3125A (Unauthorized Factoring of Credit Card Sales Drafts), 18-3126 (Misappropriation of Personal Identifying Information), 18-3127 (Receiving or Possessing Fraudulently Obtained Goods or Services), 18-3201 (Officer Stealing, Mutilating or Falsifying Public Records), 18-3202 (Private Person Stealing, Mutilating or Falsifying Public Records), 18-3203 (Offering False or Forged Instrument for Record), 18-3204 (False Certificates or Other Instruments from Officers), 18-3206 (Mutilating Written Instruments), Section 18-3601 et seq. (Forgery), Sections 18-4616 (Defacing Marks on Logs or Lumber), 18-4617 (Stealing Rides on Trains), 18-4621 (Stealing Electric Current -- Tampering with Meters), 18-4622 (Stealing Electric Current -- Accessories Liable as Principals), 18-4624 (Taken or Converted Merchandise as Theft), 18-4626 (Willful Concealment of Goods, Wares or Merchandise -- Defense for Detention), 18-4630 (Illegal Use of Documents), 18-4701 (Alteration of Bills), 18-4702 (Alteration of Enrolled Copies), 18-4703 (Offering Bribes to Legislators), 18-4704 (Legislators Receiving Bribes), Section 18-5401 et seq. (Perjury), Section 18-6501 et seq. (Robbery), Sections 18-8201 (Money Laundering and Illegal Investment -- Penalty -- Restitution), 41-293 (Insurance Fraud), 41-294 (Damage to or Destruction of Insured Property), 41-1306 (False Financial Statements), 49-228 (Receiving or Transferring Stolen Vehicles), 49-231 (Farm Implements -- Purchasing or Selling When Identifying Number Altered or Defaced a Felony), 49-232 (Fraudulent Removal or Alteration of Numbers Prohibited), 49-518 (Altering or Forging Certificate -- Stolen Cars -- Destroying or Altering Engine or Decal Number -- Use of Fictitious Name -- Fraud), or any attempt, conspiracy or solicitation to commit any of the foregoing offenses, or any racketeering offense under Section 18-7801 et seq., Idaho Code, in which any of the foregoing offenses constitutes at least one (1) of the predicate acts, or any other crime defined in the Idaho Code involving any form of theft or including fraudulent intent as an element, or an offense equivalent to any of the foregoing in any other jurisdiction.

~~*(3-15-02)*~~( )

~~09~~**18.** **Field Training**. Training in which an individual receives formal instruction on the job for special and defined purposes. (7-1-93)

~~10~~**19.** **Full Time**. Employment of ~~*eighty*~~ one hundred sixty (~~*8*~~160) hours or more per month for ninety (90) consecutive calendar days. ~~*(7-1-93)*~~(____)

~~11~~**20.** **High School**. A school accredited as a high school by the Department of Education of the state in which the high school is located, or a school accredited as a high school by the recognized regional accreditation body, or a school accredited as a high school by the State University of the state in which the school is located. (7-1-93)

~~1~~**21.** **In-Service Training**. Training designed to refresh or add to an individual's capabilities to do the task to which they are or may be assigned. (7-1-93)

22. **Juvenile Detention Center**. A juvenile detention facility that is part of or administered by the county or any political subdivision thereof and is responsible for the safety, care, protection, and monitoring of juvenile offenders. (____)

~~1~~**23.** **Juvenile Detention Officer**. Any employee of a juvenile detention center ~~*which is part of or administered by the county or any political subdivision thereof and*~~ who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center. ~~*(3-15-02)*~~(____)

~~1~~**24.** **Juvenile Probation Officer**. Any employee of a ~~*county*~~ juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation, and the supervision of juvenile offenders' compliance with court orders. ~~*(4-2-03)*~~(____)

25. **Juvenile Training Council**. An advisory group to the POST Council that is composed of the Director of the Department of Juvenile Corrections, a Magistrate, a county Juvenile Detention Director, a county Chief Probation Officer, a county Commissioner, a county Clerk, and a county Sheriff. The purpose of the Juvenile Training Council is to advise POST Council in the planning, development, and operation of the Juvenile Detention and Juvenile Probation Academies. (____)

~~15~~**26.** **Law Enforcement Profession**. As used in agreements authorized pursuant to Section 19-5112, Idaho Code, means an ~~*peace officer*~~ employee of a police or law enforcement agency that is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; an employee in a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates; an employee of a juvenile detention center that is part of or administered by the county or any political subdivision thereof and who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center; an employee of a county juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation, and the supervision of juvenile offenders' compliance with court orders; an employee of an Idaho Department of Correction facility or

private prison contractor of the State Board of Correction who is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the correction facility; or an employee of the Idaho Department of Correction who is responsible for the supervision of offenders on probation or parole. ~~(3-30-07)~~(____)

~~16~~27. Manual. This book of Rules as adopted by the Idaho Peace Officer Standards and Training Council. (4-5-00)

~~17~~28. Part Time. Employment of less than ~~*eighty (80)*~~ one hundred sixty (160) hours per month for ninety (90) consecutive calendar days. ~~(7-1-93)~~(____)

29. Part-Time Juvenile Detention Officer. Any employee of a juvenile detention center that is part of or administered by the county or any political subdivision thereof and who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center, and does not meet the definition of "employee" as defined in Section 59-1302, Idaho Code. (____)

~~18~~30. Peace Officer. Any employee of a police or law enforcement agency which is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. "Peace officer" also means an employee of a police or law enforcement agency of a federally recognized Indian tribe who has satisfactorily completed the peace officer standards and training academy and has been deputized by a sheriff of a county or a chief of police of a city of the state of Idaho. (4-5-00)

~~19~~31. POST. The Idaho Peace Officer Standards and Training Program. (7-1-93)

32. POST Basic Training Academy. The Basic Adult Probation and Parole Academy, the Basic Correction Academy, the Basic Detention Academy, the Basic Juvenile Detention Academy, the Basic Juvenile Probation Academy, or the Basic Patrol Academy. (____)

~~20~~33. Prosecutor. A city prosecuting attorney, city assistant prosecuting attorney, county prosecuting attorney, county deputy prosecuting attorney, attorney general, deputy attorney general, United States attorney, or assistant United States attorney. (4-2-03)

~~21~~34. Qualified Instructor. Any person certified by the Idaho POST Council as being competent to teach in a Council-approved school. ~~(7-1-93)~~(____)

~~22~~35. Reserve Peace Officer. An individual assigned by an agency to perform the duties of a peace officer ~~*who does not meet the definition of*~~ on a ~~*full- or*~~ part-time ~~*peace officer*~~ basis. All reserve officers shall be under supervision as set forth in these rules unless they hold a current Part-Time Basic certificate. ~~(4-2-03)~~(____)

~~2~~36. School. Any school, college, university, academy, or local training program which offers law enforcement training and includes within its meaning the combination of course curriculum, instructors and facilities, or any training session as certified by POST. (7-1-93)

~~24~~37. School Director or Coordinator. An individual charged with the responsibility of

conducting a training school under the provisions of the Act. (7-1-93)

~~25~~38. Specification. A description of a requirement supplementing a section of the Rules. (7-1-93)

~~26~~39. Temporary. Employment of less than ninety (90) consecutive calendar days. (7-1-93)

~~27~~40. Trainee. An officer participating in any POST approved training program. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

030. GENERAL AND INCIDENTAL POWERS AND DUTIES.
Besides those enumerated previously (those in Title 19, Chapter 51, Idaho Code), the duties of the Council shall be to do and perform all other acts and things required by law or which may be necessary to the full discharge of the duties of said Council, and shall include, but not be limited to the following: (4-5-00)

01. Issue Certification. To issue certification to law enforcement officers when they meet the requirements as established by the POST Council. ~~*(4-5-00)*~~(____)

02. Maintain Files. To maintain files on all certified officers, instructors, and schools; and furnish information from files upon request in accordance with the Idaho Public Records Law. ~~*(4-5-00)*~~(____)

03. Maintain Records. To receive and maintain as trustees for the state of Idaho in accordance with the Idaho State Police and POST retention schedules all physical properties and records which shall come into the possession of the Council by virtue of its existence. ~~*(4-5-00)*~~(____)

04. Establish Committees. To establish such committees, both permanent and temporary, as may be necessary to more fully carry out the administrative duties of the Council. ~~*(4-5-00)*~~(____)

05. Elect Vice-Chairman. Pursuant to Idaho Code, the Council shall elect a Vice-Chairman annually from among its membership. ~~*(4-5-00)*~~(____)

06. Adopt Rules. To adopt and amend rules and procedures consistent with law for the internal management of POST and the operation of a law enforcement training program. ~~*(4-5-00)*~~(____)

07. Assist Departments. Upon request, to assist departments and directors of training in administration and training problems encountered in complying with the various aspects of the Act as well as the ultimate objective of the Act, i.e., raising the level of competence of law enforcement officers in Idaho. ~~*(4-5-00)*~~(____)

08. Study Training Methods. To study law enforcement training methods to enable POST to provide current and updated training. ~~*(4-5-00)*~~(____)

09. Consult and Cooperate With Agencies. To consult and cooperate with recognized law enforcement agencies or educational institutions concerned with law enforcement training. ~~*(4-5-00)*~~(____)

10. Make Recommendations. To make recommendations concerning any matter within its jurisdiction. ~~*(4-5-00)*~~(____)

~~***11. Executive Director****. There shall be established in the Idaho State Police a classified position of Executive Director of the Idaho Peace Officer Standards and Training Council.* *(4-5-00)***~~

~~***a.*** *The Executive Director will be employed by the Idaho State Police to serve under the direction of the POST Council in carrying out the duties and responsibilities of the Council.* *(4-5-00)***~~

~~***b.*** *The Executive Director shall have supervision over the employees and other persons necessary in carrying out the functions of POST.* *(4-5-00)***~~

~~***c.*** *For administrative purposes, the Executive Director and his staff will be governed by the Policies and Rules of the state of Idaho and the Idaho State Police, concerning but not limited to fiscal, purchasing, and personnel matters.* *(4-5-00)***~~

~~***d.*** *The Executive Director shall be selected by the POST Council subject to approval of the Director of the Idaho State Police from the approved register established by the Idaho Division of Human Resources after competitive testing.* *(4-5-00)***~~

11. Grant Additional Time to Complete POST Training and Certification. The Council, for good cause and in writing, may grant additional time to complete POST training and certification. Good cause may include, but is not limited to, sickness or physical disability of officer or immediate family member, cancellation of Basic Academy, natural disaster, or reapplication to the Academy after failing or being unable to complete a previous Basic Academy Session. (____)

~~**12. Examining Board**. *The Chairman of the POST Council will recommend one Chief or Sheriff who is a member of the POST Council to serve on the examining board set up by the Idaho Division of Human Resources.* *(4-5-00)***~~

~~**13. Compensation**. *Except for the Executive Director of the POST Council, the members of the Council receive no compensation from POST for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their functions, as prescribed by law.* *(4-5-00)***~~

~~**14. Council Resignations**. *Any Council member who ceases to qualify as such shall at once notify the Governor and Chairman in writing. Any Council member who desires to terminate*~~

~~*their services shall notify the Governor and Chairman in writing of their intentions.* *(4-5-00)*~~

~~**15. Contested Cases**. *Rules of Procedure in contested cases shall be governed by the Idaho Administrative Procedures Act.* *(4-5-00)*~~

~~**16. Additional Time to Complete POST Training and Certification**. *The Council, for good cause and in writing, may grant additional time to complete POST training and certification. Good cause may include, but is not limited to, sickness or physical disability of officer or immediate family member, cancellation of Basic Academy, natural disaster, or reapplication to the Academy after failing or being unable to complete a previous Basic Academy Session.* *(4-5-00)*~~

031. EXECUTIVE DIRECTOR.
There shall be established in the Idaho State Police a classified position of Executive Director of the Idaho Peace Officer Standards and Training Council. ( )

01. Selection of Executive Director. ( )

a. The Chairman of the POST Council shall recommend one Chief or Sheriff who is a member of the POST Council to serve on the examining board set up by the Idaho Division of Human Resources. ( )

b. The Executive Director shall be selected by the POST Council subject to approval of the Director of the Idaho State Police from the approved register established by the Idaho Division of Human Resources after competitive testing. ( )

02. Under POST Council's Direction. The Executive Director will be employed by the Idaho State Police to serve under the direction of the POST Council in carrying out the duties and responsibilities of the Council. ( )

03. Supervision Over Employees. The Executive Director shall have supervision over the employees and other persons necessary in carrying out the functions of POST. ( )

04. Administration. For administrative purposes, the Executive Director and his staff will be governed by the Policies and Rules of the state of Idaho and the Idaho State Police, concerning but not limited to fiscal, purchasing, and personnel matters. ( )

032. POST COUNCIL.

01. Compensation. Except for the Executive Director of the POST Council, the members of the Council receive no compensation from POST for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their functions, as prescribed by law. ( )

02. Council Resignations. Any Council member who ceases to qualify as such shall at once notify the Governor and Chairman in writing. Any Council member who desires to terminate their services shall notify the Governor and Chairman in writing of their intentions. ( )

03. **Contested Cases**. Rules of Procedure in contested cases shall be governed by the Idaho Administrative Procedures Act. (____)

03~~1~~3. HEARING BOARD.
The POST Council may appoint a Hearing Board to hear all matters appropriately brought before the POST Council for decision, pursuant to Chapter 51, Title 19. (3-30-07)

01. Appointment of Members. The chairman of the POST Council shall appoint three members of the POST Council to serve on the Hearing Board. The Hearing Board shall consist of a city chief of police, a county sheriff, and an attorney. (3-30-07)

02. Recommended and Final Orders. Orders issued by the Hearing Board at the conclusion of proceedings shall be considered recommended orders and will become final orders only after POST Council's review pursuant to Section 67-5244, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Subsection 720.01.
. (3-30-07)

03. Discovery. Pursuant to Section 19-5107, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Sections 520 through 532, discovery may be conducted in contested cases before the Hearing Board and POST Council. (3-30-07)

03~~2~~4. -- 039. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

041. THE RECORDS SYSTEM.

01. Training File. The Idaho Peace Officer Standards and Training Council will maintain a training file on all Idaho law enforcement officers. Officer certifications granted and certified training schools attended by officers will be recorded in these files. (4-5-00)

02. Notification of Employment/Termination. ~~*It will be the responsibility of the law enforcement*~~ The agency head ~~*to*~~ of any agency whose officers are required to attend a POST Basic Training Academy shall notify the Council of all presently employed officers every January and July. The names of all officers hired after submission of the original list must be submitted to the Council within fifteen (15) days of employment. The termination of an officer's employment must also be relayed to the Council within fifteen (15) days of such action on an appropriate form designated by the Council. ~~*(4-6-05)*~~(____)

03. Training Record. A training record listing all certified courses an officer has completed, the hours credit, and other pertinent data will be kept along with the officer's file. (4-5-00)

04. Other Law Enforcement Personnel. A file on other law enforcement personnel may be maintained. This file will contain records for other law enforcement persons who

successfully complete POST-certified courses. (4-5-00)

05. Instructors. Names of certified instructors will be maintained. (4-5-00)

06. Instructors and Schools. A list of approved instructors and schools will be maintained. (4-5-00)

042. PROCEDURE.

01. Application. Each individual officer may apply for certification when they have met the requirements. When they are certified by the Council, this is entered into their file. (Refer to "Certification of Peace, Detention, Juvenile Detention, and Juvenile Probation Officers.") ~~*(4-5-00)*~~(____)

02. Roster. School coordinators will furnish to the Council a "Course Attendance Roster" on the appropriate form designated by the Council upon the completion of each certified training school. (Refer to "School Formation and Certification~~ *of Schools*~~.") ~~*(4-5-00)*~~(____)

043. FORMS FOR RECORD USE.
All forms used or referred to in this manual are available upon request from: Idaho Peace Officer Standards & Training Council, P.O. Box 700, Meridian, Idaho 8368-0700 and from POST's website at http://www.idaho-post.org. ~~*(3-20-97)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

050. MINIMUM STANDARDS FOR EMPLOYMENT.
Every peace, county detention, juvenile detention, ~~*or*~~ and juvenile probation officer shall meet the requirements in Sections 050 through 06~~*3*~~4. ~~*(4-2-03)*~~(____)

~~**01. Citizenship**. *Shall be a citizen of the United States.* *(3-15-02)*~~

~~**02. Education Requirements**. *(3-20-97)*~~

~~**a.** *Graduation from high school or having passed the General Educational Development Test indication of high school graduation. The military or veterans equivalent of high school graduation is also acceptable.* *(3-15-02)*~~

~~**b.** *Documentary evidence of satisfaction of this requirement shall be in the form of a high school diploma, high school transcript, GED certificate, or GED test report form. A college transcript indicating the successful completion of a minimum of fifteen (15) academic credits is also acceptable. In unusual circumstances, the Council may accept other documentation, and in such cases the decision of the Council shall be final.* *(3-15-02)*~~

~~**03. Experience Requirements**. *(3-20-97)*~~

~~**a.** *Not less than two (2) years of responsible work experience following high school*~~

~~*graduation (or when the applicant would have graduated).* (3-20-97)~~

~~**b.** *The work experience requirement can be complied with by two (2) years of any combination of military service, gainful employment, education, or any other productive activity.* (4-2-03)~~

051. CITIZENSHIP.
The applicant shall be a citizen of the United States. ( )

01. Documentation. Proof of citizenship shall not have been mutilated, altered, or damaged, and shall be in the form of one (1) of the following: ( )

a. Birth certificate issued by the city, county, or state and filed within one (1) year of birth; ( )

b. Naturalization Certificate; ( )

c. U.S. passport; ( )

d. Consular Report of Birth Abroad or Certification of Birth; or ( )

e. Certificate of Citizenship. ( )

052. EDUCATION.
The applicant shall be a high school graduate or have earned a GED certificate. ( )

01. Documentation. Proof of education shall not have been mutilated, altered, or damaged, and shall be in the form of one (1) of the following: ( )

a. High school diploma; ( )

b. GED certificate; ( )

c. High school transcript; ( )

d. GED test report form; or ( )

e. College transcript indicating the successful completion of a minimum of fifteen (15) academic credits. ( )

053. EXPERIENCE.
The applicant shall have a minimum of two (2) years of any combination of responsible work experience, military service, education, or any other productive activity ( )

05~~1~~4. CHARACTER.
The POST Council may take into consideration the commission of any act or offense involving moral turpitude to ensure an applicant is of good moral character and warrants the public trust. The purpose of this requirement is to prohibit persons who engage in dishonest, unprofessional,

unethical, or immoral conduct from becoming law enforcement officers, and to protect against acts or conduct which may endanger the safety and welfare of the public. (4-2-03)

05~~2~~5. CRIMINAL RECORD.

01. Fingerprints. The applicant shall be fingerprinted on two (2) copies of the standard FBI Applicant fingerprint form, and a search made of local, state, and national fingerprint files to disclose any criminal record. The original copies of all records check results shall be retained by the POST Council. (4-2-03)

02. Conviction. The term "conviction" shall include: (4-2-03)

a. Any conviction in a federal, tribal, state, county, or municipal court; (3-15-02)

b. A voluntary forfeiture of bail, bond, or collateral deposited to secure a defendant's appearance in court as final disposition; (3-15-02)

c. The payment of a fine; (3-15-02)

d. A plea of guilty, nolo contendere; or (3-15-02)

e. A finding of guilt regardless of whether the sentence is imposed, suspended, deferred, or withheld, and regardless of whether the plea or conviction is set aside or withdrawn, or the case or charge is dismissed, or the record expunged under Section 19-2604, Idaho Code, or any other comparable statute or procedure, where the setting aside of the plea or conviction, or dismissal of the case or charge, or expungement of the record is based upon lenity or the furtherance of rehabilitation rather than upon any defect in the legality or factual basis of the plea, finding of guilt, or conviction. (3-15-02)

03. Misdemeanor Conviction. A misdemeanor conviction of any federal, state, or local crime may be grounds for rejection of the applicant. (4-2-03)

a. An applicant shall be rejected who has been convicted of any misdemeanor sex crime, crime of deceit, or drug offense unless the conviction occurred more than five (5) years prior to application and the applicant's agency head files a written request for review with the POST Council. In the case of a willful concealment or petit theft conviction, the applicant may be accepted upon approval of the POST Executive Director. The Executive Director shall have the discretion to refer the application to the POST Council. In all other cases, the POST Council shall review the application and determine whether the individual shall be certifiable as a peace, detention, juvenile detention, or juvenile probation officer in the state of Idaho. (4-2-03)

b. An applicant shall be rejected who has been convicted of a DUI during the two (2) years immediately preceding application. No waivers shall be granted by the POST Council for DUI convictions within the last two (2) years. If the conviction occurred more than two (2) years prior to application, the applicant may be accepted upon approval of the POST Executive Director provided the applicant's agency head, with knowledge of the facts and circumstances concerning the offense or violation, recommends approval. The Executive Director shall have the discretion to refer the application to the POST Council. (3-15-02)

c. An applicant with any other misdemeanor conviction may be accepted upon approval of the POST Executive Director provided the conviction occurred more than two (2) years prior to application and the applicant's agency head, with knowledge of the facts and circumstances concerning the offense or violation, recommends approval. The Executive Director shall have the discretion to refer the application to the POST Council. If the conviction occurred during the two (2) years immediately preceding application, the POST Council shall review the application and determine whether the individual shall be certifiable as a peace, detention, juvenile detention, or juvenile probation officer in the state of Idaho. (4-2-03)

04. Felony Conviction. An applicant shall be rejected who has been convicted of any felony crime, the punishment for which could have been imprisonment in a federal or state penal institution. For the purpose of this rule, a felony conviction shall continue to be considered a felony conviction regardless of whether the conviction is later reduced to a misdemeanor conviction under Section 19-2604, Idaho Code, or any other comparable statute or procedure, where the reduction is based upon lenity or the furtherance of rehabilitation rather than upon any defect in the legality or factual basis of the felony conviction. No waivers shall be granted by the POST Council, except where, since the time of the conviction, the crime for which the defendant was convicted has, by statute, been reduced to a misdemeanor or decriminalized in the jurisdiction where the conviction occurred. In such cases, the POST Council shall review the application and determine whether the individual shall be certifiable as a peace, detention, juvenile detention, or juvenile probation officer in the state of Idaho. (4-2-03)

05~~3~~6. MILITARY RECORD.
A "dismissal," "bad conduct discharge" (BCD), "dishonorable discharge" (DD), or administrative discharge of other than honorable (OTH) from the military service will disqualify the applicant. The administrative discharge of "general under honorable conditions" (GEN), a "general" discharge, or an "uncharacterized" discharge may be grounds for rejection. In the case of a "general under honorable conditions" or "uncharacterized" discharge, the applicant may be accepted upon approval of the POST Executive Director. The Executive Director will have the discretion to refer the application to the POST Council. In the case of a "general" discharge, the POST Council will review the application and determine whether the individual will be certifiable as a peace, detention, juvenile detention, or juvenile probation officer in the state of Idaho.
(3-30-07)

~~054. (RESERVED).~~

05~~5~~7. TRAFFIC RECORD INVESTIGATION.

01. Requirements. (7-1-93)

a. The applicant shall possess a valid driving license from his state of residence and qualify for an Idaho driver's license. (3-15-02)

b. An applicant with a record of a driver's license suspension in any jurisdiction, or a driving without privileges conviction or an equivalent conviction in any other jurisdiction, may be accepted upon approval of the POST Executive Director provided the suspension concluded or conviction occurred more than two (2) years prior to application and the applicant's agency head,

with knowledge of the facts and circumstances concerning the suspension or conviction, recommends approval. The Executive Director shall have the discretion to refer the application to the POST Council. If the suspension concluded or conviction occurred during the two (2) years immediately preceding application, the POST Council shall review the application and determine whether the individual shall be certifiable as a peace, detention, or juvenile detention officer in the state of Idaho. (3-15-02)

c. Where the applicant's traffic record discloses the commission of five (5) or more moving traffic offenses during the three (3) years immediately preceding application, the POST Council shall review the application and determine whether the individual shall be certifiable as a peace, detention, or juvenile detention officer in the state of Idaho. (3-15-02)

02. Procedures. At a minimum, a check of driving records shall be made of the Motor Vehicle Division, Highway Department, state of Idaho, and the files of the motor vehicle department in the states of the applicant's previous residences. (3-15-02)

05~~6~~8. BACKGROUND INVESTIGATION.

01. Requirements. The applicant shall have undergone a comprehensive background investigation, the results of which attest to the fact that the person meets the minimum standards for employment, has not engaged in conduct or a pattern of conduct that would jeopardize public trust in the law enforcement profession, and is of good moral character. Consideration will be given to any and all law violations, including traffic and fish and game infractions or convictions. (3-15-02)

02. Procedures. (3-15-02)

a. The applicant shall complete and submit to the appointing law enforcement agency a comprehensive application and personal history statement prior to the start of the background investigation. The history statement shall contain questions which aid in determining whether the applicant is eligible for certified status as a peace, detention, ~~or~~ juvenile detention, or juvenile probation officer. The background investigation shall include information provided by personal references, schools, and the last three (3) previous employers, as well as law enforcement agency records in jurisdictions where the applicant has lived or worked. This information shall be recorded and retained by the appointing agency. ~~(3-15-02)~~( )

b. The appointing agency shall conduct a personal interview with the applicant to ascertain personal attributes such as personal appearance, demeanor, attitudes that are relevant to the law enforcement mission, judgment, maturity, resourcefulness, and ability to communicate. Searching questions shall be asked about: (3-15-02)

i. Use of intoxicants, narcotics and drugs; (3-15-02)

ii. Physical, mental, and emotional history; (3-15-02)

iii. Family problems; (3-15-02)

iv. Moral outlook and habits; and (3-15-02)

v. Financial transactions. (3-15-02)

c. The appointing agency shall have a thorough investigation into the character and reputation of the applicant conducted by an experienced investigator. The applicant's morality, integrity, reputation, honesty, dependability, qualifications, experience, associations, emotional stability, prejudice, and loyalty shall be explored. (3-15-02)

d. All results of the background investigation shall be considered confidential and processed accordingly. (3-15-02)

e. The results of the background investigation shall ultimately be evaluated by the agency head and/or the appointing authority to determine whether the applicant is suitable. (3-15-02)

05~~7~~9. PHYSICAL - MEDICAL.

01. Requirements. (7-1-93)

a. Hearing. The applicant must have unaided or aided hearing between zero (0) and twenty-five (25) decibels for each ear at the frequencies of five-hundred (500) Hz, one thousand (1000) Hz, two thousand (2000) Hz, and three thousand (3000) Hz. Waiver ~~*to*~~ of the above may be considered if accompanied by the certificate of an audiologist~~*'s*~~ or ear, nose, and throat physician~~*'s certification*~~ that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a peace, detention, juvenile detention, or juvenile probation officer. If the applicant's unaided or aided hearing is between twenty-six (26) and forty (40) decibels, the applicant may be accepted upon approval of the POST Executive Director. The Executive Director will have the discretion to refer the application to the POST Council. If the applicant's unaided or aided hearing is over forty (40) decibels, the POST Council will review the application and determine whether the individual will be certifiable as a peace, detention, juvenile detention, or juvenile probation officer in the state of Idaho. ~~*(3-30-07)*~~(____)

b. Vision. (7-1-93)

i. The applicant must possess ~~*normal*~~ binocular coordination that does not manifest diplopia; depth of proficiency of a minimum of one (1) minute of arc at twenty (20) feet; peripheral vision must be binocularly two hundred (200) degrees laterally with sixty (60) degrees upward and seventy (70) degrees downward. There must be no pathology of the eye; applicant must possess a minimum seventy percent (70%) proficiency ~~*of the Dvorine or equivalent*~~ on a color discrimination test. Waiver ~~*to*~~ of the above may be considered by the Council if accompanied by the certificate of a vision specialist~~*'s certification*~~ that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a peace, detention, juvenile detention, or juvenile probation officer. ~~*(3-20-04)*~~(____)

ii. The applicant must have uncorrected vision in each eye of no ~~*worse*~~ weaker than twenty/two hundred (20/200) with the strong eye corrected to twenty/twenty (20/20) and the weaker eye corrected to twenty/sixty (20/60). An applicant who wears contact lenses is exempt from the uncorrected vision of twenty/two hundred (20/200), but must have the strong eye

corrected to twenty/twenty (20/20) and the weaker eye corrected to twenty/sixty (20/60). A full eye examination must be administered by an optometrist or ophthalmologist to any applicant who wears glasses whose uncorrected vision in either eye is twenty/one hundred fifty (20/150) or ~~worse~~ weaker. Waiver ~~to~~ of the above may be considered by the Council if accompanied by the certificate of a vision specialist~~'s certification~~ that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a peace, detention, juvenile detention, or juvenile probation officer. ~~(3-30-07)~~(____)

c. Disease/Condition. The applicant must be free from any impediments of the senses of sight, hearing, taste, smell, and touch; physically sound; well developed physically and in possession of his extremities; free from any physical defects, chronic or organic diseases, organic or functional conditions, or emotional or mental instabilities which may tend to impair efficient performance of duty or which might endanger the lives of others or the life of the officer. Waiver ~~to a physical defect~~ of the above may be considered by the Council upon the applicant's demonstration that the ~~defect~~ deficiency does not jeopardize or impair his ability to perform the duties of a peace, detention, juvenile detention, or juvenile probation officer. ~~(3-20-04)~~(____)

d. Agency Physical Agility/Fitness Test. To determine the applicant's physical capability, a physical agility or fitness test based upon the job requirements of the appointing agency must be administered by the appointing agency to each applicant. (3-20-04)

02. Procedures. (7-1-93)

a. A POST Council-approved medical history form must be supplied by each applicant to the examining physician. The medical history must include information on past and present diseases, injuries and operations. (3-20-04)

b. A medical examination must be administered by a licensed physician or his designee to determine if the applicant is free from any physical, emotional, or mental condition which might adversely affect the applicant's ability to perform the duties of a peace, detention, juvenile detention, or juvenile probation officer. The physician must record his findings on the appropriate form ~~or letter~~ and must note thereon~~, for evaluation by the appointing authority,~~ any past or present physical defects, diseases, injuries, operations or conditions of an abnormal or unusual nature, or indications of mental or emotional instability. A medical examination shall remain valid for one (1) year. ~~(3-20-04)~~(____)

0~~58~~60. MENTAL EXAMINATION.

01. Requirement. Where a question of emotional stability or disorder is indicated by the physician's report or the background investigation, a thorough evaluation shall be made by a licensed psychiatrist or clinical psychologist to determine if the applicant is free from any emotional or mental condition which might adversely affect the applicant's ability to perform the duties of a peace, detention, ~~or~~ juvenile detention, or juvenile probation officer. ~~(3-15-02)~~(____)

02. Procedure. During the interview, the examining psychiatrist or psychologist shall evaluate the applicant sufficiently to assess those symptoms of a degree that would impair the effective performance of duty. The results of the examination shall be recorded and that record or a summary of recommendations shall be forwarded to the appointing authority for review.

(3-15-02)

0~~59~~61. APTITUDE.
The applicant shall be evaluated on the agency-approved aptitude test to determine if the applicant possesses the aptitude, capacity, and adaptability for absorbing and understanding the training and skills which are essential to the performance of the law enforcement function.
(3-15-02)

06~~0~~2. EXCEPTIONS.
The required minimum standards for employment are not applicable to the ~~*superintendent*~~ director of ~~*state police*~~ the Idaho State Police or any elected official. ~~*(3-15-02)*~~(____)

06~~1~~3. CODE OF CONDUCT/CODE OF ETHICS.
Each applicant shall attest that he has read, understands, and will abide by the Law Enforcement Code of Conduct as found in Subsection 091.04 and the Law Enforcement Code of Ethics as ~~*adopted by the International Association of Chiefs of Police, 515 North Washington Street, Alexandria, VA 22314*~~ found in Subsection 091.05. ~~*(4-2-03)*~~(____)

06~~2~~4. PROBATIONARY PERIOD.

01. Probation. Every officer appointed by an agency below the level of agency head shall satisfactorily complete a probationary period of not less than six (6) months. This requirement shall also apply to officers who transfer laterally into an agency. (3-15-02)

02. Supervisor/Mid-Manager. Every officer who is promoted or appointed to a supervisory, middle management, or assistant agency head position shall satisfactorily complete a probationary period of not less than six (6) months in that position. (3-15-02)

03. Extended. No peace, detention, ~~*or*~~ juvenile detention, or juvenile probation officer who lacks the training qualifications required by the Council shall have his temporary or probationary employment extended beyond one (1) year by renewal of appointment or otherwise.
~~*(3-15-02)*~~(____)

06~~3~~5. SPECIAL PROVISIONS.

01. Minimum Standards. It is emphasized that these are minimum standards for employment. Higher standards are recommended whenever the availability of qualified applicants meets the demand. (7-1-93)

02. No Discrimination. No agency shall discriminate as to employment against any persons on the basis of race, creed, color, or sex, pursuant to state or federal law. (3-15-02)

03. Equal Opportunity Employer. Every agency shall be an equal opportunity employer. (3-15-02)

06~~4~~6. -- 069. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

071. BASIC TRAINING ACADEMY.
Every peace and detention officer must begin the respective POST Basic Training Academy within six (6) months from the date of their appointment as a full-time officer. Every peace, detention, juvenile detention, and juvenile probation officer must successfully complete the respective POST Basic Training Academy, including the field training portion, within twelve (12) months from the date of their appointment as a full-time officer. This time period includes probationary time. (4-6-05)

01. Closed Campus. The POST Basic Patrol, Juvenile Detention, and Juvenile Probation Training Academies will operate as a closed campus Monday through Thursday. The POST Council may consider an exemption to this requirement in the case of a documented severe financial hardship for the applicant where no other alternative exists and provided the applicant's agency head files a written request for review with the POST Council. A trainee granted a hardship exemption will be required to attend all mandatory classes, and must not be late to any class. Unauthorized lateness to or absence from any class will be grounds for revocation of the hardship exemption by the POST Executive Director. ~~(3-20-04)~~(____)

02. Open Campus. All other POST Basic Training Academies shall operate as an open campus. (____)

0~~2~~3. Attendance. Attendance will be required of each trainee at all classes in the Basic Training Academy. A trainee who is absent for more than one (1) day of the academy session must make up such course content. (3-20-04)

0~~3~~4. Completion. A trainee must successfully complete the Basic Training Academy within six (6) months of the date they enroll in such course. In a case of delay of more than six (6) months, the entire course must be repeated. (3-20-04)

0~~4~~5. Field Training. The field training portion must be completed to be eligible for certification. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

079. THE PATROL-TO-DETENTION TRANSITION ACADEMY TRAINING CURRICULUM.

01. Eligibility. To be eligible to attend the Patrol-to-Detention Transition Academy, each applicant shall be: (4-2-03)

a. A peace or county detention officer appointed by a duly constituted Idaho law enforcement agency who possesses or is eligible to possess a valid Idaho POST Basic, Intermediate, or Advanced Certificate; (4-2-03)

b. A self-sponsored student who has satisfactorily completed the Idaho POST Basic Patrol Academy within the last three (3) years; ~~or~~ ~~(4-2-03)~~(____)

c. A program coordinator of an Idaho POST-certified vocational law enforcement program; or (____)

~~e~~d. A professional member of the POST Council staff. (4-2-03)

02. Training Hours. The amount of training for which certification may be granted in the Patrol-to-Detention Transition Academy shall be a total of one hundred thirty (130) hours, with ninety (90) hours received at the training academy and forty (40) hours received in jail training in the officer's appointing agency or another agency if necessary prior to or subsequent to attendance at the Patrol-to-Detention Transition Academy. (4-2-03)

03. Requirements. (4-2-03)

a. Successful completion of ninety (90) hours of instruction in the following minimum prescribed subject areas at the Patrol-to-Detention Transition Academy shall be required:

Summary	Hours
Jail Standards Procedures	9
Detention Legal Issues	20
Practical Skills	15
Jail Medical Issues	10
Human Relations	6
Detention Techniques	13
Incident Procedures	4
Emergency Procedures	6
Research Assignment	1
Administration/Examinations	6
Sub-Total	90
Jail Training Manual	40
Total	130

(4-2-03)

b. It is emphasized that the established patrol-to-detention transition academy training is only a minimum and that additional instruction beyond the academy is necessary if the proper training of a detention officer, as required by the profession, is to be accomplished. (4-2-03)

c. Successful completion of forty (40) hours of supervised jail training in the

appointing agency, or another agency if necessary, shall be required. (4-2-03)

04. Procedure. (4-2-03)

a. Trainees shall be enrolled in the Patrol-to-Detention Transition Academy in sufficient time to permit completion of the course and the supervised jail training during the twelve-month (12) period following their appointment as a detention officer. (4-2-03)

b. The Council shall issue a certificate of graduation from the Patrol-to-Detention Transition Academy to each trainee who successfully completes the Patrol-to-Detention Transition Academy. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

092. LAPSE OF PEACE OFFICER CERTIFICATION.
The certification of any peace officer will be considered lapsed if the officer does not serve as a peace officer in Idaho for three (3) consecutive years. Provided, however, that ~~*those persons once POST certified as peace officers*~~ an Idaho POST-certified peace officer who remains in ~~*active law enforcement in Idaho*~~ an administrative, jail, communications, or civil division duty assignment with a police or law enforcement agency that is a part of or administered by the state of Idaho or any political subdivision thereof or in a duty assignment as a tribal police officer with a federally recognized Indian tribe within Idaho and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision will retain their POST certification ~~*for purposes of compliance with this rule. The person must*~~ provided they satisfy the continuing training requirements of Sections 360 through 363 and work at least one hundred twenty (120) hours ~~*active law enforcement*~~ per year. ~~*This includes administrative, jail, or civil division duty assignments in law enforcement agencies as defined in Section 19-5101(d), Idaho Code.*~~ ~~*(4-11-06)*~~(____)

01. Three to Five Years. A peace officer who has been out of full-time law enforcement status from three (3) to five (5) years and who wants to be recertified must meet the following POST requirements: (4-6-05)

a. Submit a POST Certification Patrol Challenge Packet; (4-2-03)

b. Attend an approved course of study in Idaho law and pass the POST Idaho law exam; (4-2-03)

c. Pass the following tests administered by a POST Training Specialist: (4-2-03)

i. The POST patrol certification examination approved by the Council, conducted in the manner set forth in Subsection 097.02.b.; (4-2-03)

ii. The POST Firearms Qualification Course; (4-2-03)

iii. The POST Physical Fitness Test Battery; and (4-2-03)

d. Satisfy the probationary period requirement of Section 06~~2~~4. ~~(4-2-03)~~(____)

02. Over Five Years. A peace officer who has been out of full-time law enforcement status for over five (5) years must attend the POST Basic Patrol Academy to be recertified. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time law enforcement, the officer was engaged in an occupation requiring law enforcement training, skill, and experience. This evidence must be submitted with a POST Certification Patrol Challenge Packet. Upon receiving a waiver, the officer must meet the following POST requirements: (4-6-05)

a. Attend an approved course of study in Idaho law and pass the POST Idaho law exam; (4-2-03)

b. Attend and pass Idaho POST-certified courses in Emergency Vehicle Operation, Arrest Techniques, Handgun Retention, and Practical Problems; (4-2-03)

c. Pass the following tests administered by a POST Training Specialist: (4-2-03)

i. The POST patrol certification examination approved by the Council, conducted in the manner set forth in Subsection 097.02.b.; (4-2-03)

ii. The POST Firearms Qualification Course; (4-2-03)

iii. The POST Physical Fitness Test Battery; and (4-2-03)

d. Satisfy the probationary period requirement of Section 06~~2~~4. ~~(4-2-03)~~(____)

03. Over Eight Years. A peace officer who has been out of full-time law enforcement status for over eight (8) years must attend the POST Basic Patrol Academy to be recertified. No waiver of this requirement will be granted by the Council. (4-6-05)

04. Exception. The provisions of Subsections 092.01 through 092.03 will not apply to officers holding a part-time basic certificate who satisfy the continuing training requirements of Sections 360 through 363 and work at least one hundred twenty (120) hours per year within the law enforcement profession. (4-6-05)

093. PEACE OFFICER CERTIFICATION.

Any peace officer as defined in Section 19-5101(d), Idaho Code, except any elected official, any deputy sheriff serving civil process, the ~~*superintendent*~~ director of the Idaho State Police, or those peace officers whose primary duties involve motor vehicle parking and animal control pursuant to city or county ordinance, shall be certified by the Peace Officer Standards and Training Council within one (1) year after first being appointed unless granted additional time to complete certification by the POST Council as set forth in Subsection 030.1~~6~~1. ~~(4-2-03)~~(____)

094. GENERAL PROVISIONS.

01. Purpose. Basic, Part-Time Basic, Intermediate, and Advanced Certificates are established for the purpose of fostering professionalism, education, and experience necessary to perform adequately the duties of law enforcement. (4-2-03)

02. Eligibility. To be eligible for the award of a Basic, Intermediate, or Advanced Certificate, each applicant shall be a professional member of the POST Council staff, or a full-time peace officer appointed by a duly constituted Idaho law enforcement agency. To be eligible for the award of a part-time Basic certificate each applicant shall be a professional member of the POST Council staff, or a part-time peace officer appointed by a duly constituted Idaho law enforcement agency. (4-2-03)

03. Applications. All applications for award of the Basic, Part-Time Basic, Intermediate, or Advanced Certificates shall be completed by the applicant on the prescribed form "Application for Certification" as provided by the POST Council. (4-2-03)

04. Submission. The Application for Certification form shall be submitted by the applicant to his agency head who shall review it for accuracy prior to signing it and forwarding it to the Council. Certificates shall be issued to the agency head for award to the applicant. (4-2-03)

05. Minimum Standards. Each applicant shall meet the minimum standards for employment and basic training as provided in Sections 050 through 06~~3~~4 and 070 through 076. ~~*(4-2-03)*~~(____)

06. Other. The ~~*superintendent*~~ director of the Idaho State Police or any elected official, although specifically excluded by law from meeting the requirements set by the Council, may be certified if they so desire, provided they meet the minimum requirements for certification as prescribed in these rules. ~~*(4-2-03)*~~(____)

095. LAW ENFORCEMENT EXPERIENCE.
Law enforcement experience, as used herein, means actual time served with a duly constituted law enforcement agency as a peace officer, county detention officer, or communications specialist. The acceptability of time served as a peace officer, county detention officer, or communications specialist in a jurisdiction other than the state of Idaho, or in a jurisdiction which does not comply with the minimum standards for employment as set forth in Sections 050 through 06~~3~~4, will be subject to the determination of the Council. ~~*(3-30-07)*~~(____)

096. COLLEGE CREDITS.

01. College Hour. One (1) college or university semester hour or unit shall equal one (1) college credit.\ (7-1-93)

02. College Quarter Hour. One (1) college or university quarter hour or unit shall equal two-thirds (2/3) of one (1) college credit. (7-1-93)

03. Conversion to POST Training Hours. College credits may be converted to POST training hours at the rate of one (1) college credit equals twenty (20) POST training hours. (4-2-03)

04. Credits for POST-Approved Training. When college credit is awarded or purchased for POST-approved training, it may be counted for either POST training hours or college credit, whichever is to the advantage of the applicant~~*, subject to the limitation set forth in Subsection 096.05*~~. ~~*(4-2-03)*~~(____)

~~***05. Limitation on Credits for POST-Approved Training**. Of the required amount of college credits needed for higher levels of certification, no more than one-half (1/2) shall be from credits awarded or purchased from any college or university for attending POST-approved training.* *(4-2-03)***~~

097. THE BASIC AND PART-TIME BASIC CERTIFICATE.
In addition to the requirements set forth in Section 094 of these rules, the requirements in Section 097 are necessary for award of the basic certificate and the part-time basic certificate. (4-2-03)

01. Probation. The applicant shall have satisfactorily completed at least a six (6) month probationary period, which may include basic patrol academy time. The probationary period may be extended by the appointing agency which could delay certification until the probationary period is satisfactorily completed. This six (6) months' time shall be continuous with the agency the officer is appointed to when applying for certification. The probationary period shall not extend over one (1) year for certification purposes. (4-2-03)

02. Basic Training. The applicant shall have satisfactorily completed: (4-2-03)

a. The POST Basic Patrol Academy as required by the Council in Section 071; or (4-2-03)

b. Be a graduate of a law enforcement vo-tech program, the curriculum of which has been certified by the Council as being equivalent to the POST Basic Patrol Academy, and shall have passed the POST patrol certification examination approved by the Council. The applicant shall be allowed two (2) attempts to pass the examination. The attempts shall be no less than thirty (30) days apart and no more than six (6) months apart. If an officer fails both attempts or fails to retake the examination within six (6) months, he shall successfully complete the POST Basic Patrol Academy to be certified. (4-2-03)

03. Field Training. The applicant shall have satisfactorily completed forty (40) hours of POST-approved field training. (4-2-03)

04. Vo-Tech Program Graduates. Graduates from Idaho POST-certified law enforcement vo-tech programs shall also comply with the requirements of Subsection 073.02. (4-2-03)

05. Patrol and Detention Vo-Tech Program Graduates. An applicant who is appointed to a peace officer position from three (3) to five (5) years after satisfactorily completing both the patrol and detention officer training through an Idaho POST-certified law enforcement vo-tech program, shall be eligible for peace officer certification in Idaho without attending the POST Basic Patrol Academy, provided the officer: (____)

a. Was appointed to a county detention officer position in Idaho within three (3) years

from graduating from the vo-tech program; ( )

b. Possesses detention officer certification from Idaho; ( )

c. Submits a POST Certification Patrol Challenge Packet; ( )

d. Attends an approved course of study in Idaho law and passes the POST Idaho law exam; ( )

e. Passes the following tests administered by a POST Training Specialist: ( )

i. The POST patrol certification examination approved by the Council, conducted in the manner set forth in Subsection 097.02.b.; ( )

ii. The POST Firearms Qualification Course; ( )

iii. The POST Physical Fitness Test Battery; and ( )

f. Satisfies the probationary period requirement of Section 064. ( )

(BREAK IN CONTINUITY OF SECTIONS)

116. CAREER-LEVEL CERTIFICATION.

01. General Provisions. (4-2-03)

a. To be eligible for the award of a Supervisor, Master, or Management certificate, each applicant shall be a full-time peace officer, county detention officer, or communications specialist appointed by a duly constituted Idaho law enforcement agency or a professional member of the POST Council staff. To be eligible for the award of an Executive certificate, each applicant shall be a full-time peace officer appointed by a duly constituted Idaho law enforcement agency or a professional member of the POST Council staff. (4-2-03)

b. All applications for award of the Supervisor, Master, Management, or Executive Certificates shall be completed by the applicant on the prescribed form "Application for Certification" as provided by the POST Council. (4-2-03)

c. The Application for Certification form shall be submitted by the applicant to his agency head who shall review it for accuracy prior to signing it and forwarding it to the Council. Certificates shall be issued to the agency head for award to the applicant. (4-2-03)

d. Each applicant for the Master and Supervisor certificates shall meet the minimum standards for employment and basic training as provided in Sections 050 through 06~~3~~4 and 070 through 076. Each applicant for the Management and Executive certificates shall meet the minimum standards for employment as provided in Sections 050 through 06~~3~~4. ~~*(4-2-03)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

130. LEVEL I RESERVE PEACE OFFICER CERTIFICATION.
Any peace officer as defined in Section 19-5101(d), Idaho Code, except any elected official, any deputy sheriff serving civil process, the ~~*superintendent*~~ director of the Idaho State Police, or those peace officers whose primary duties involve motor vehicle parking and animal control pursuant to city or county ordinance, shall be certified by the Peace Officer Standards and Training Council within one (1) year after first being appointed unless granted additional time to complete certification by the POST Council as set forth in Subsection 030.1~~6~~1. ~~*(4-2-03)*~~(____)

131. GENERAL PROVISIONS.

01. Eligibility. To be eligible for the award of a Level I Reserve certificate or Level I Reserve Marine Deputy certificate, each applicant must be a reserve peace officer appointed by a duly constituted Idaho law enforcement agency or a professional member of the POST Council staff. (4-6-05)

02. Minimum Standards. Each applicant must meet the minimum standards for employment as provided in Sections 050 through 06~~3~~4, with the exception of fitness which will be left to the discretion of the appointing agency. ~~*(4-6-05)*~~(____)

03. Applications. All applications for award of the Level I Reserve certificate or Level I Reserve Marine Deputy certificate must be completed on the prescribed form "Application for Certification" as provided by the POST Council. (4-6-05)

04. Submission. The Application for Certification form must be submitted by the applicant to his agency head who must review it for accuracy prior to signing it and forwarding it to the Council. Certificates must be issued to the agency head for award to the applicant. (4-6-05)

05. Supervision. All certified reserve peace officers must be under supervision of a full-time peace officer. The term "supervision" is intended to limit the activities of a reserve peace officer. Each agency must draft its individual agency policy in reference to the supervision of its certified reserve peace officers, and that policy must be kept on file within each agency. (4-6-05)

06. Limitation. A reserve peace officer's certification will be effective only during those periods when he is formally assigned by the appointing agency to perform the duties of a peace officer. (4-6-05)

07. Retaining Certification. A certified reserve peace officer must satisfy the continuing training requirements of Sections 360 through 363 and work one hundred twenty (120) hours annually in a peace officer capacity to retain certification. Documentation of hours worked must be kept on file at the appointing agency. Any reserve peace officer not satisfying the continuing training requirements of Sections 360 through 363 or working less than one hundred twenty (120) hours annually must complete all requirements as set forth in Sections 130 through 131 and either Sections 132 through 135 or 146 through 149 to be recertified. (4-6-05)

08. Full-Time Peace Officer Status. To be certified as a full-time peace officer, a

reserve peace officer, upon appointment to full-time peace officer status, must comply with the requirements in Sections 093 through 097. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

171. LAPSE OF DETENTION OFFICER CERTIFICATION.
The certification of any county detention officer will be considered lapsed if the officer does not serve as a county detention officer in Idaho for three (3) consecutive years. Provided, however, that ~~*those persons once POST certified as county detention officers*~~ an Idaho POST-certified county detention officer who remains in ~~*active law enforcement in Idaho*~~ an administrative, patrol, communications, or civil division duty assignment with a police or law enforcement agency that is a part of or administered by the state of Idaho or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision will retain their POST certification ~~*for purposes of compliance with this rule. The person must*~~ provided they satisfy the continuing training requirements of Sections 360 through 363 and work at least one hundred twenty (120) hours ~~*active law enforcement*~~ per year. ~~*This includes administrative, patrol, or civil division duty assignments in law enforcement agencies as defined in Section 19-5101(d), Idaho Code.*~~ ~~*(4-11-06)*~~(____)

01. Three to Five Years. A county detention officer who has been out of full-time law enforcement status from three (3) to five (5) years and who wants to be recertified must meet the following POST requirements: (4-6-05)

a. Submit a POST Certification Detention Challenge Packet; (4-2-03)

b. Attend an approved course of study in Idaho detention legal issues and pass the POST Idaho detention legal issues exam; (4-2-03)

c. Pass the following tests administered by a POST Training Specialist: (4-2-03)

i. The POST detention certification examination approved by the Council, conducted in the manner set forth in Subsection 176.02.~~*b*~~c.; ~~*(4-2-03)*~~(____)

ii. The POST Firearms Qualification Course; (4-2-03)

iii. The POST Physical Fitness Test Battery; and (4-2-03)

d. Satisfy the probationary period requirement of Section 06~~2~~4. ~~*(7-1-99)*~~(____)

02. Over Five Years. A county detention officer who has been out of full-time law enforcement status for over five (5) years must attend the POST Basic Detention Academy to be recertified. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time law enforcement, the officer was engaged in an occupation requiring law enforcement training, skill, and experience. This evidence must be submitted with a POST Certification

Detention Challenge Packet. Upon receiving a waiver, the officer must meet the following POST requirements: (4-6-05)

a. Attend an approved course of study in Idaho detention legal issues and pass the POST Idaho detention legal issues exam; (4-2-03)

b. Attend and pass Idaho POST-certified courses in Arrest Techniques, Handgun Retention, and Practical Problems; (4-2-03)

c. Pass the following tests administered by a POST Training Specialist: (4-2-03)

i. The POST detention certification examination approved by the Council, conducted in the manner set forth in Subsection 176.02.~~*b*~~c.; ~~*(4-2-03)*~~(____)

ii. The POST Firearms Qualification Course; (4-6-05)

iii. The POST Physical Fitness Test Battery; and (4-6-05)

d. Satisfy the probationary period requirement of Section 06~~2~~4. ~~*(7-1-99)*~~(____)

03. Over Eight Years. A county detention officer who has been out of full-time law enforcement status for over eight (8) years must attend the POST Basic Detention Academy to be recertified. No waiver of this requirement will be granted by the Council. (4-6-05)

172. DETENTION OFFICER CERTIFICATION.
Any county detention officer as defined in Section 19-5101(b), Idaho Code, shall be certified by the Peace Officer Standards and Training Council within one (1) year after first being appointed unless granted additional time to complete certification by the POST Council as set forth in Subsection 030.1~~*6*~~1. ~~*(4-2-03)*~~(____)

173. GENERAL PROVISIONS.

01. Purpose. Level I, Level II, and Level III Certificates are established for the purpose of fostering professionalism, education, and experience necessary to perform adequately the duties of a detention officer. (4-2-03)

02. Eligibility. To be eligible for the award of a Level I, Level II, or Level III certificate, each applicant shall be a full-time county detention officer appointed by a duly constituted Idaho law enforcement agency, a full-time peace officer who has graduated from the Patrol-to-Detention Transition Academy and is currently appointed by a duly constituted Idaho law enforcement agency, or a professional member of the POST Council staff. (4-2-03)

03. Applications. All applications for award of the Level I, Level II, or Level III Certificates shall be completed by the applicant on the prescribed form "Application for Certification" as provided by the POST Council. (4-2-03)

04. Submission. The Application for Certification form shall be submitted by the applicant to his agency head who shall review it for accuracy prior to signing it and forwarding it

to the Council. Certificates shall be issued to the agency head for award to the applicant. (4-2-03)

05. Minimum Standards. Each applicant shall meet the minimum standards for employment and basic training as provided in Sections 050 through 06~~3~~4, 070 through 074, 077, and 078. ~~(4-2-03)~~(____)

06. Conversion. Any county detention officer who currently possesses a Level I, Level II, or Level III detention officer classification shall convert from classified to certified status. (4-2-03)

174. LAW ENFORCEMENT EXPERIENCE.
Law enforcement experience, as used herein, means actual time served with a duly constituted law enforcement agency as a peace officer, county detention officer, or communications specialist. The acceptability of time served as a peace officer, county detention officer, or communications specialist in a jurisdiction other than the state of Idaho, or in a jurisdiction which does not comply with the minimum standards for employment as set forth in Sections 050 through 06~~3~~4, will be subject to the determination of the Council. ~~(3-30-07)~~(____)

175. COLLEGE CREDITS.

01. College Hour. One (1) college or university semester hour or unit shall equal one (1) college credit. (7-1-99)

02. College Quarter Hour. One (1) college or university quarter hour or unit shall equal two-thirds (2/3) of one (1) college credit. (7-1-99)

03. Conversion to POST Training Hours. College credits may be converted to POST training hours at the rate of one (1) college credit equals twenty (20) POST training hours. (4-2-03)

04. Credits for POST-Approved Training. When college credit is awarded or purchased for POST-approved training, it may be counted for either POST training hours or college credit, whichever is to the advantage of the applicant~~*, subject to the limitation set forth in Subsection 175.05*~~. ~~(4-2-03)~~(____)

~~***05.*** **Limitation on Credits for POST-Approved Training**. *Of the required amount of college credits needed for higher levels of certification, no more than one-half (1/2) shall be from credits awarded or purchased from any college or university for attending POST-approved training.* (4-2-03)~~

176. THE LEVEL I CERTIFICATE.
In addition to the requirements set forth in Section 173 of these rules, the requirements in Section 176 are necessary for award of the Level I Certificate. (4-2-03)

01. Probation. The applicant shall have satisfactorily completed at least a six (6) month probationary period, which may include basic detention academy time. The probationary period may be extended by the appointing agency which could delay certification until the probationary period is satisfactorily completed. This six (6) months' time shall be continuous with

the agency the officer is appointed to when applying for certification. The probationary period shall not extend over one (1) year for certification purposes. (4-2-03)

02. **Basic Training**. The applicant shall have satisfactorily completed: (4-2-03)

a. The POST Basic Detention Academy as required by the Council in Section 071; (4-2-03)

b. The POST Patrol-to-Detention Transition Academy; or (4-2-03)

c. Be a graduate of a law enforcement vo-tech program, the curriculum of which has been certified by the Council as being equivalent to the POST Basic Detention Academy, and shall have passed the POST detention certification examination approved by the Council. The applicant shall be allowed two (2) attempts to pass the examination. The attempts shall be no less than thirty (30) days apart and no more than six (6) months apart. If an officer fails both attempts or fails to retake the examination within six (6) months, he shall successfully complete the POST Basic Detention Academy to be certified. (4-2-03)

03. **Jail Training**. The applicant shall have satisfactorily completed forty (40) hours of POST-approved jail training. (4-2-03)

04. **Vo-Tech Program Graduates**. Graduates from Idaho POST-certified law enforcement vo-tech programs shall also comply with the requirements of Subsection 073.02. (4-2-03)

05. **Patrol and Detention Vo-Tech Program Graduates**. An applicant who is appointed to a detention officer position from three (3) to five (5) years after satisfactorily completing both the patrol and detention officer training through an Idaho POST-certified law enforcement vo-tech program, shall be eligible for detention officer certification in Idaho without attending the POST Basic Detention Academy, provided the officer: ( )

a. Was appointed to a peace officer position in Idaho within three (3) years from graduating from the vo-tech program; ( )

b. Possesses peace officer certification from Idaho; ( )

c. Submits a POST Certification Detention Challenge Packet; ( )

d. Attends an approved course of study in Idaho detention legal issues and passes the POST Idaho detention legal issues exam; ( )

e. Passes the following tests administered by a POST Training Specialist: ( )

i. The POST detention certification examination approved by the Council, conducted in the manner set forth in Subsection 176.02.c.; ( )

ii. The POST Firearms Qualification Course; ( )

iii. The POST Physical Fitness Test Battery; and ( )

f. Satisfies the probationary period requirement of Section 064. ( )

177. CHALLENGING THE BASIC DETENTION ACADEMY.
Any county detention officer presently appointed by a duly constituted Idaho law enforcement agency who, within the last five (5) years, has been employed and certified or commissioned by another state or the federal government as a detention officer or a student who has satisfactorily completed a Basic Detention Academy equivalent to the Idaho POST Basic Detention Academy within the last three (3) years will be eligible for certification in the state of Idaho without attending the Basic Detention Academy, provided the officer: (4-6-05)

01. Submission of Challenge Packet. Submits a POST Certification Detention Challenge Packet to POST Council, which must include copies of POST training records from other states to substantiate the officer's training; and transcripts, certificates, diplomas, or other documents that substantiate the officer's education and experience; (4-6-05)

02. Detention Legal Issues Course Attendance. Attends an approved course of study in Idaho detention legal issues and passes the POST Idaho detention legal issues exam; (4-6-05)

03. Passes Required Tests. Passes the following tests administered by a POST Training Specialist: (4-2-03)

a. The POST detention certification examination approved by the Council, conducted in the manner set forth in Subsection 176.02.~~*b*~~c.; ~~*(4-2-03)*~~( )

b. The POST Firearms Qualification Course; and (4-2-03)

c. The POST Physical Fitness Test Battery. (4-2-03)

04. Completes Probationary Period. Completes his probationary period as required by Subsection 176.01. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

197. GENERAL PROVISIONS.

01. Certificates and Awards. Certificates and awards may be presented by the Council for the purpose of recognizing or raising the level of competence of law enforcement and to foster cooperation among the Council, agencies, groups, organizations, jurisdictions, and individuals. Communications Specialist Certification is not statutorily mandated, but is voluntary. (4-2-03)

02. Property. Certificates and awards remain the property of the Council and are only valid as long as the communications specialist is appointed as an Idaho communications specialist by a duly constituted Idaho law enforcement agency. (4-2-03)

03. Eligibility. To be eligible for the award of a Level I, Level II, Level III, or Advanced certificate, each applicant shall be a full-time communications specialist appointed by a duly constituted Idaho law enforcement agency. (4-2-03)

04. Applications. All applications for award of the Level I, Level II, Level III, or Advanced Certificates shall be completed by the applicant on the prescribed form "Application for Certification" as provided by the POST Council. (4-2-03)

05. Submission. The Application for Certification form shall be submitted by the applicant to his agency head who shall review it for accuracy prior to signing it and forwarding it to the Council. Certificates shall be issued to the agency head for award to the applicant. (4-2-03)

06. Training. Training not listed on the applicant's Idaho POST training record shall be supported by copies of certificates, course outlines, or other verifying documents attached to the application. (4-2-03)

07. Minimum Standards. Each applicant shall meet the minimum standards for employment as provided in Sections 050 through 05~~6~~8. ~~*(4-2-03)*~~(____)

198. COMMUNICATIONS SPECIALIST EXPERIENCE.
Communications specialist experience, as used herein, means actual time served as a full-time communications specialist with a duly constituted law enforcement agency. The acceptability of time served as a communications specialist in a jurisdiction other than the state of Idaho, or in a jurisdiction which does not comply with the minimum standards for employment as set forth in Sections 050 through 05~~6~~8, shall be subject to the determination of the Council. ~~*(4-2-03)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

323. GENERAL PROVISIONS.

01. Purpose. Vocational law enforcement program certification is established for the purpose of recognizing those programs whose curriculum is equivalent to the POST Basic Patrol Academy and/or POST Basic Detention Academy. (4-11-06)

02. Eligibility. To be eligible for vocational law enforcement program certification, the applying entity must be in compliance with all standards established by the Idaho Department of Education for such programs, the curriculum requirements of Subsections 075.02.a. and/or 077.02.a. of these rules, and the requirements in Sections 321 through 3~~29~~33 of these rules. ~~*(4-11-06)*~~(____)

03. Assessment Form. All assessments must be completed on the prescribed form as provided by the POST Council. (4-11-06)

04. Assessment Visits. Entities seeking vocational law enforcement program certification and those programs already certified will be subject to scheduled and unscheduled

visits by the POST Regional Training Specialists and other members of the Peace Officer Standards and Training Council during which adherence to certification standards will be assessed. (4-11-06)

05. Expiration of Certification. Vocational law enforcement program certification will remain valid for two (2) years. (4-11-06)

06. Renewal of Certification. To maintain certified status, a vocational law enforcement program must successfully complete the recertification process prior to the expiration of their certification. Upon renewal, the vocational law enforcement program certification will remain valid for another two (2) years. If a program is granted temporary certification, upon approval of full certification status, the program's certification will expire on the date it would have expired had full certification initially been granted at time of renewal. (4-11-06)

324. PROCEDURES.

01. Permission to Proceed. An entity seeking vocational law enforcement program certification must receive permission to proceed from the Peace Officer Standards and Training Council prior to beginning the certification process. (4-11-06)

02. Assessment. Upon complying with the requirements of Sections 321 through 3~~29~~33 of these rules, the program coordinator for the entity seeking vocational law enforcement program certification must contact a POST Regional Training Specialist to schedule a comprehensive on-site assessment by a POST Assessment Team. ~~(4-11-06)~~(____)

a. Upon completion of an on-site assessment, if it is determined that one (1) or more of the requirements for program certification have not been met, the applying entity will be given ninety (90) days to correct the deficiency. Written notification of the requirement(s) not met and the date scheduled for a second on-site assessment of the program will be provided to the program coordinator by the POST Regional Training Specialist. (4-11-06)

b. Upon completion of an on-site assessment, if it is determined that all requirements for program certification have been met, the POST Council will issue a certificate to the applying entity. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

333. CONDUCT AND BEHAVIOR.

01. POST Minimum Standards for Employment. Any vocational law enforcement student that does not meet the Minimum Standards for Employment as provided in Sections 050 through 06~~3~~4 of these rules will not be given the final test unless they have been granted a waiver in accordance with Subsection 327.03 of these rules. ~~(4-11-06)~~(____)

02. Code of Conduct/Code of Ethics. Every vocational law enforcement student

must attest that he has read, understands, and will abide by the Law Enforcement Code of Conduct as found in Subsection 091.04 of these rules and the Law Enforcement Code of Ethics as ~~*adopted by the International Association of Chiefs of Police, 515 North Washington Street, Alexandria, VA 22314*~~ found in Subsection 091.05 of these rules. ~~*(4-11-06)*~~(____)

03. Integrity. The vocational law enforcement program must have a policy on integrity. This policy must clearly state that dishonesty, including acts of academic dishonesty and plagiarism; untruthfulness; or discourtesy will not be tolerated. This policy must be reviewed with all vocational law enforcement students upon entry into the program. (4-11-06)

04. Social Contact. The vocational law enforcement program must have a policy expressly prohibiting students from having social contact, either on or off campus, with any vocational law enforcement program staff member or instructor. Associations between students and vocational law enforcement program staff members or instructors must be professional in nature at all times. (4-11-06)

05. Other Standards of Conduct and Behavior. The vocational law enforcement program must address other standards of conduct and behavior that reflect good taste, courtesy, consideration, and respect for the rights and privileges of others. Any conduct detrimental to the conduct, efficiency, or discipline of the vocational law enforcement program must be prohibited. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

351. SELF-SPONSORED STUDENT PROGRAM SELECTION STANDARDS.

01. Requirement. Every Self-Sponsored Student shall meet the minimum standards for employment (Sections 050 through 06~~3~~4) of this manual. ~~*(3-20-97)*~~(____)

02. Procedures. (3-20-97)

a. The applicant shall be required to complete and submit to the POST Council a comprehensive application and personal history packet, along with two (2) sets of fingerprints on FBI applicant fingerprint cards. A non-refundable application fee is required and must accompany the application. (3-20-97)

b. In order to determine the applicant's suitability as a Self-Sponsored Student, the POST Council shall conduct a thorough criminal and personal history background investigation. The fingerprint cards shall be submitted to the Bureau of Criminal Identification, which shall use one (1) set to conduct a statewide search, and shall forward the other set to the FBI for a national criminal history record check. All results of the background investigation will be considered confidential and processed accordingly. (3-20-97)

c. The applicant must also successfully complete a polygraph, psychological evaluation, physical agility test, and a Police Officer Selection written examination approved by POST Council. (3-20-97)

IDAPA 11 - IDAHO STATE POLICE

11.11.04 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR CORRECTION OFFICERS AND ADULT PROBATION AND PAROLE OFFICERS

DOCKET NO. 11-1104-0701

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-5107, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 249 through 258.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Trish Christy at (208) 884-7253.

DATED this 2nd day of November, 2007.

Jeffry J. Black
Executive Director
Idaho State Police/Peace Officer Standards and Training
700 S. Stratford Dr.
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7251/(208) 884-7295 (FAX)

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 21, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 19-5107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Clarify what documentation is acceptable as proof of citizenship; reword education and experience standards to make them easier to understand; add language allowing minor hearing deficiencies to be waived by the POST Executive Director rather than the POST Hearing Board; update minimum vision standards; establish how long a medical exam is valid; correct outdated subsection numbers referring to other rules; add firearms qualification requirement for Probation and Parole officers.

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

Due to an extreme shortage of Correction Officers in the prisons, these rules are being processed as temporary rules to streamline the application process as soon as possible.

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: 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: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting and approval of the rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Trish Christy at (208) 884-7253.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 23rd day of August, 2007.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

031. MINIMUM STANDARDS FOR EMPLOYMENT FOR CORRECTION OFFICERS.
Every correction officer must meet the requirements in Sections 031 through 04~~3~~4. ~~*(4-11-06)*~~(____)

~~***01.*** ***Citizenship***. Must be a citizen of the United States. (4-11-06)~~

~~***02.*** ***Education Requirements***. (4-11-06)~~

~~***a.*** Graduation from high school or having passed the General Educational Development Test indication of high school graduation. The military or veterans equivalent of high school graduation is also acceptable. (4-11-06)~~

~~***b.*** Documentary evidence of satisfaction of this requirement must be in the form of a high school diploma, high school transcript, GED certificate, or GED test report form. A college transcript indicating the successful completion of a minimum of fifteen (15) academic credits is also acceptable. In unusual circumstances, the Council may accept other documentation, and in such cases the decision of the Council will be final. (4-11-06)~~

~~***03.*** ***Experience Requirements***. (4-11-06)~~

~~***a.*** Not less than two (2) years of responsible work experience following high school graduation (or when the applicant would have graduated). (4-11-06)~~

~~***b.*** The work experience requirement can be complied with by two (2) years of any combination of military service, gainful employment, education, or any other productive activity. (4-11-06)~~

032. CITIZENSHIP.
The applicant shall be a citizen of the United States. (____)

01. **Documentation**. Proof of citizenship shall not have been mutilated, altered, or damaged, and shall be in the form of one (1) of the following: ( )

a. Birth Certificate issued by the city, county, or state and filed within one (1) year of birth; ( )

b. Naturalization Certificate; ( )

c. U.S. Passport; ( )

d. Consular Report of Birth Abroad or Certification of Birth; or ( )

e. Certificate of Citizenship. ( )

033. EDUCATION.
The applicant shall be a high school graduate or have earned a GED (General Education Development) certificate. ( )

01. **Documentation**. Proof of education shall not have been mutilated, altered, or damaged, and shall be in the form of one (1) of the following: ( )

a. High school diploma; ( )

b. GED certificate; ( )

c. High school transcript; ( )

d. GED test report form; or ( )

e. College transcript indicating the successful completion of a minimum of fifteen (15) academic credits. ( )

034. EXPERIENCE.
The applicant shall have a minimum of two (2) years of any combination of responsible work experience, military service, education, or any other productive activity. ( )

03~~2~~5. CHARACTER.
The POST Council may take into consideration the commission of any act or offense involving moral turpitude to ensure an applicant is of good moral character and warrants the public trust. The purpose of this requirement is to prohibit persons who engage in dishonest, unprofessional, unethical, or immoral conduct from becoming correction officers, and to protect against acts or conduct which may endanger the safety and welfare of the public. (4-11-06)

03~~3~~6. CRIMINAL RECORD.

01. **Fingerprints**. The applicant must be fingerprinted on two (2) copies of the standard FBI Applicant fingerprint form, and a search made of local, state, and national

fingerprint files to disclose any criminal record. The original copies of all records check results must be retained by the POST Council. (4-11-06)

02. Conviction. The term "conviction" includes: (4-11-06)

a. Any conviction in a federal, tribal, state, county, or municipal court; (4-11-06)

b. A voluntary forfeiture of bail, bond, or collateral deposited to secure a defendant's appearance in court as final disposition; (4-11-06)

c. The payment of a fine; (4-11-06)

d. A plea of guilty, nolo contendere; or (4-11-06)

e. A finding of guilt regardless of whether the sentence is imposed, suspended, deferred, or withheld, and regardless of whether the plea or conviction is set aside or withdrawn, or the case or charge is dismissed, or the record expunged under Section 19-2604, Idaho Code, or any other comparable statute or procedure, where the setting aside of the plea or conviction, or dismissal of the case or charge, or expungement of the record is based upon lenity or the furtherance of rehabilitation rather than upon any defect in the legality or factual basis of the plea, finding of guilt, or conviction. (4-11-06)

03. Misdemeanor Conviction. A misdemeanor conviction of any federal, state, or local crime may be grounds for rejection of the applicant. (4-11-06)

a. An applicant must be rejected who has been convicted of any misdemeanor sex crime, crime of deceit, or drug offense unless the conviction occurred more than five (5) years prior to application and the applicant's agency head files a written request for review with the POST Council. In the case of a willful concealment or petit theft conviction, the applicant may be accepted upon approval of the POST Executive Director. The Executive Director will have the discretion to refer the application to the POST Council. In all other cases, the POST Council must review the application and determine whether the individual will be certifiable as a correction officer in the state of Idaho. (4-11-06)

b. An applicant with any other misdemeanor conviction will be accepted upon approval of their agency head provided the conviction occurred more than two (2) years prior to application and the applicant's agency head submits written documentation that, with knowledge of the facts and circumstances concerning the offense or violation, he approves the applicant. If the conviction occurred during the two (2) years immediately preceding application, the POST Council must review the application and determine whether the individual will be certifiable as a correction officer in the state of Idaho. (4-11-06)

04. Felony Conviction. An applicant must be rejected who has been convicted of any felony crime, the punishment for which could have been imprisonment in a federal or state penal institution. For the purpose of this rule, a felony conviction will continue to be considered a felony conviction regardless of whether the conviction is later reduced to a misdemeanor conviction under Section 19-2604, Idaho Code, or any other comparable statute or procedure, where the reduction is based upon lenity or the furtherance of rehabilitation rather than upon any

defect in the legality or factual basis of the felony conviction. No waivers will be granted by the POST Council, except where, since the time of the conviction, the crime for which the defendant was convicted has, by statute, been reduced to a misdemeanor or decriminalized in the jurisdiction where the conviction occurred. In such cases, the POST Council must review the application and determine whether the individual will be certifiable as a correction officer in the state of Idaho. (4-11-06)

03~~4~~7. MILITARY RECORD.
A "dismissal," "bad conduct discharge" (BCD), "dishonorable discharge" (DD), or administrative discharge of other than honorable (OTH) from the military service will disqualify the applicant. The administrative discharge of "general under honorable conditions" (GEN), a "general" discharge, or an "uncharacterized" discharge may be grounds for rejection. (4-11-06)

~~***035. 036. (RESERVED).***~~

03~~7~~8. BACKGROUND INVESTIGATION.

01. Requirements. The applicant must have undergone a comprehensive background investigation, the results of which attest to the fact that the person meets the minimum standards for employment, has not engaged in conduct or a pattern of conduct that would jeopardize public trust in the correction profession, and is of good moral character. Consideration will be given to any and all law violations, including traffic and fish and game infractions or convictions. (4-11-06)

02. Procedures. (4-11-06)

a. The applicant must complete and submit to the appointing correction agency a comprehensive application and personal history statement prior to the start of the background investigation. The history statement must contain questions which aid in determining whether the applicant is eligible for certified status as a correction officer. The background investigation must include information provided by personal references, schools, and the last three (3) previous employers, as well as law enforcement agency records in jurisdictions where the applicant has lived or worked. This information must be recorded and retained by the appointing agency. (4-11-06)

b. The appointing agency must conduct a personal interview with the applicant to ascertain personal attributes such as personal appearance, demeanor, attitudes that are relevant to the correction mission, judgment, maturity, resourcefulness, and ability to communicate. Searching questions may include, but not be limited to: (4-11-06)

i. Use of intoxicants, narcotics and drugs; (4-11-06)

ii. Physical, mental, and emotional history; (4-11-06)

iii. Family problems; (4-11-06)

iv. Moral outlook and habits; and (4-11-06)

v. Financial transactions. (4-11-06)

c. The appointing agency must conduct a thorough investigation into the character and reputation of the applicant which may include, but not be limited to, the applicant's morality, integrity, reputation, honesty, dependability, qualifications, experience, associations, emotional stability, prejudice, and loyalty. (4-11-06)

d. All results of the background investigation must be considered confidential and processed accordingly. (4-11-06)

e. The results of the background investigation must ultimately be evaluated by the agency head and/or the appointing authority to determine whether the applicant is suitable. (4-11-06)

03~~8~~9. PHYSICAL -- MEDICAL.

01. Requirements. (4-11-06)

a. Hearing. The applicant must have unaided or aided hearing between zero (0) and thirty (30) decibels for each ear at the frequencies of one thousand (1000) Hz and two thousand (2000) Hz; and unaided or aided hearing between zero (0) and fifty (50) decibels for each ear at the frequency of three thousand (3000) Hz. Waiver ~~*to*~~ of the above may be considered ~~*by the Council*~~ if accompanied by the certificate of an audiologist~~*'s*~~ or ear, nose, and throat physician~~*'s certification*~~ that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a correction officer. If the applicant's unaided or aided hearing at one thousand (1000) Hz and two thousand (2000) Hz is between thirty-one (31) and forty (40) decibels, the applicant may be accepted upon approval of the POST Executive Director. The Executive Director shall have the discretion to refer the application to the POST Council. If the applicant's unaided or aided hearing at one thousand (1000) Hz and two thousand (2000) Hz is over forty (40) decibels or if the applicant's unaided or aided hearing at three thousand (3000) Hz is over fifty (50) decibels, the POST Council shall review the application and determine whether the individual shall be certifiable as a correction officer in the state of Idaho. ~~*(4-11-06)*~~( )

b. Vision. (4-11-06)

i. The applicant must demonstrate to a vision specialist the ability to distinguish primary colors. (4-11-06)

ii. The applicant must have uncorrected vision in each eye of no ~~*worse*~~ weaker than twenty/two hundred (20/200) with the strong eye corrected to twenty/thirty (20/30) and the weaker eye corrected to twenty/sixty (20/60). An applicant who wears contact lenses is exempt from the uncorrected vision of twenty/two hundred (20/200), but must have the strong eye corrected to twenty/thirty (20/30) and the weaker eye corrected to twenty/sixty (20/60). A full eye examination must be administered by an optometrist or ~~*opthalmalogist*~~ ophthalmologist to any applicant who wears glasses whose uncorrected vision in either eye is twenty/one hundred fifty (20/150) or ~~*worse*~~ weaker. Waiver ~~*to*~~ of the above may be considered by the Council if accompanied by the certificate of a vision specialist~~*'s certification*~~ that the applicant's condition

will not jeopardize or impair the applicant's ability to perform the duties of a correction officer. ~~(4-11-06)~~(____)

c. Disease/Condition. The applicant must be free from any impediments of the senses of sight, hearing, taste, smell, and touch; physically sound; well developed physically and in possession of his extremities; free from any physical defects, chronic or organic diseases, organic or functional conditions, or emotional or mental instabilities which may tend to impair efficient performance of duty or which might endanger the lives of others or the life of the officer. Waiver ~~*to a physical defect*~~ of Section 039 may be considered by the Council upon the applicant's demonstration that the ~~*defect*~~ deficiency does not jeopardize or impair his ability to perform the duties of a correction officer. ~~(4-11-06)~~(____)

d. Physical Agility. The applicant must pass the POST Physical Agility Test for Correction Officers. (4-11-06)

02. Procedures. (4-11-06)

a. A POST Council-approved medical history form must be supplied by each applicant to the examining physician. The medical history must include information on past and present diseases, injuries and operations. (4-11-06)

b. A medical examination must be administered by a licensed physician or his designee to determine if the applicant is free from any physical, emotional, or mental condition which might adversely affect the applicant's ability to perform the duties of a correction officer. The physician must record his findings on the appropriate form or letter and must note thereon, for evaluation by the appointing authority, any past or present physical defects, diseases, injuries, operations or conditions of an abnormal or unusual nature, or indications of mental or emotional instability. A medical examination shall remain valid for one (1) year. ~~(4-11-06)~~(____)

0~~39~~40. MENTAL EXAMINATION.

01. Requirement. Where a question of emotional stability or disorder is indicated by the physician's report or the background investigation, a thorough evaluation must be made by a licensed psychiatrist or clinical psychologist to determine if the applicant is free from any emotional or mental condition which might adversely affect the applicant's ability to perform the duties of a correction officer. (4-11-06)

02. Procedure. During the interview, the examining psychiatrist or psychologist must evaluate the applicant sufficiently to assess those symptoms of a degree that would impair the effective performance of duty. The results of the examination must be recorded and that record or a summary of recommendations must be forwarded to the appointing authority for review. (4-11-06)

04~~0~~1. APTITUDE.
The applicant must be evaluated on the agency-approved aptitude test to determine if the applicant possesses the aptitude, capacity, and adaptability for absorbing and understanding the training and skills which are essential to the performance of the correction function. (4-11-06)

04~~1~~2. CODE OF CONDUCT/CODE OF ETHICS.
Each applicant must attest that he has read, understands, and will abide by the Law Enforcement Code of Conduct as found in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Subsection 091.04 and the Law Enforcement Code of Ethics as ~~*adopted by the International Association of Chiefs of Police, 515 North Washington Street, Alexandria, VA 22314*~~ found in Subsection 091.05. ~~*(4-11-06)*~~( )

04~~2~~3. PROBATIONARY PERIOD.

01. Probation. Every officer appointed by an agency below the level of agency head must satisfactorily complete a probationary period of not less than six (6) months. This requirement must also apply to officers who transfer laterally into an agency. (4-11-06)

02. Supervisor/Mid-Manager. Every officer who is promoted or appointed to a supervisory, middle management, or assistant agency head position must satisfactorily complete a probationary period of not less than six (6) months in that position. (4-11-06)

03. Extended. No correction officer who lacks the training qualifications required by the Council will have his temporary or probationary employment extended beyond one (1) year by renewal of appointment or otherwise. (4-11-06)

04~~3~~4. SPECIAL PROVISIONS.

01. Minimum Standards. It is emphasized that these are minimum standards for employment. Higher standards are recommended whenever the availability of qualified applicants meets the demand. (4-11-06)

02. No Discrimination. No agency will discriminate as to employment against any persons on the basis of race, creed, color, or sex, pursuant to state or federal law. (4-11-06)

03. Equal Opportunity Employer. Every agency must be an equal opportunity employer. (4-11-06)

04~~4~~5. -- 050. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

052. CORRECTION OFFICER CERTIFICATION.

01. Mandatory Certification. Every correction officer employed after July 1, 2005 must be certified by the Peace Officer Standards and Training Council within one (1) year after first being appointed unless granted additional time to complete certification by the POST Council as set forth in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Subsection 030.1~~6~~1. ~~*(4-11-06)*~~( )

02. Voluntary Certification. Correction officers employed prior to July 1, 2005, although specifically excluded by law from meeting the requirements set by the Council, may be certified provided they meet the minimum requirements for certification as prescribed in Sections 022, 031 through 04~~3~~4, and 053 of these rules. However, the requirement for successful completion of the POST Basic Correction Academy will be waived if the officer scores a minimum of seventy-five percent (75%) on the POST correction certification examination approved by the Council. The applicant will be allowed two (2) attempts to pass the examination. The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. If an officer fails both attempts or fails to retake the examination within six (6) months, he must successfully complete the POST Basic Correction Academy to be certified. This option closes on June 30, 2010. ~~(3-30-07)~~(____)

053. THE BASIC CERTIFICATE.
In addition to the requirements set forth in Sections 022 and 031 through 04~~3~~4 of these rules, the requirements in Section 053 of these rules are necessary for award of the Basic Correction Officer certificate. ~~(4-11-06)~~(____)

01. Probation. The applicant must have satisfactorily completed at least a six (6) month probationary period, which may include basic correction academy time. The probationary period may be extended by the appointing agency which could delay certification until the probationary period is satisfactorily completed. This six (6) months' time must be continuous with the agency the officer is appointed to when applying for certification. The probationary period must not extend over one (1) year for certification purposes. (4-11-06)

02. Basic Training. The applicant must have satisfactorily completed: (4-11-06)

a. The POST Basic Correction Academy; or (4-11-06)

b. Be a graduate of a private prison contractor's correction officer training program, the curriculum of which has been certified by the Council as being equivalent to the POST Basic Correction Academy, and must have passed the POST correction certification examination approved by the Council. The applicant will be allowed two (2) attempts to pass the examination. The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. If an officer fails both attempts or fails to retake the examination within six (6) months, he must successfully complete the POST Basic Correction Academy to be certified. (4-11-06)

03. Correction Field Training Manual. The applicant must have satisfactorily completed forty (40) hours of POST-approved correction field training. (4-11-06)

04. Private Prison Contractor's Correction Officer Training Program. A graduate from an Idaho POST-certified private prison contractor's correction officer training program must also submit a completed POST Correction Officer Certification Packet. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

061. MINIMUM STANDARDS FOR EMPLOYMENT FOR ADULT PROBATION AND PAROLE OFFICERS.

Every adult probation and parole officer must meet the minimum standards for employment as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Sections 050 through 06~~3~~5, with the exception of hearing, vision, and physical agility. ~~(4-11-06)~~(____)

01. Hearing. An applicant for adult probation and parole officer certification must have unaided or aided hearing between zero (0) and twenty-five (25) decibels for each ear at the frequencies of one thousand (1000) Hz, two thousand (2000) Hz, and three thousand (3000) Hz. Waiver ~~to~~ of the above may be considered ~~by the Council~~ if accompanied by the certificate of an audiologist~~'s~~ or ear, nose, and throat physician~~'s certification~~ that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of an adult probation and parole officer. If the applicant's unaided or aided hearing is between twenty-six (26) and forty (40) decibels, the applicant may be accepted upon approval of the POST Executive Director. The Executive Director shall have the discretion to refer the application to the POST Council. If the applicant's unaided or aided hearing is over forty (40) decibels, the POST Council shall review the application and determine whether the individual shall be certifiable as an adult probation and parole officer in the state of Idaho. ~~(4-11-06)~~(____)

02. Vision. (4-11-06)

a. An applicant for adult probation and parole officer certification must possess ~~normal~~ binocular coordination that does not manifest diplopia; depth of proficiency of a minimum of one (1) minute of arc at twenty (20) feet; peripheral vision must be binocularly two hundred (200) degrees laterally with sixty (60) degrees upward and seventy (70) degrees downward. There must be no pathology of the eye; applicant must possess a minimum of seventy percent (70%) proficiency ~~of the Dvorine or equivalent~~ on a color discrimination test. Waiver ~~to~~ of the above may be considered by the Council if accompanied by the certificate of a vision specialist~~'s certification~~ that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of an adult probation and parole officer. ~~(4-11-06)~~(____)

b. The applicant must have uncorrected vision in each eye of no ~~worse~~ weaker than twenty/two hundred (20/200) with the strong eye corrected to twenty/twenty (20/20) and the weaker eye corrected to twenty/sixty (20/60). An applicant who wears contact lenses is exempt from the uncorrected vision of twenty/two hundred (20/200), but must have the strong eye corrected to twenty/twenty (20/20) and the weaker eye corrected to twenty/sixty (20/60). A full eye examination must be administered by an optometrist or ~~opthalmalogist~~ ophthalmologist to any applicant who wears glasses whose uncorrected vision in either eye is twenty/one hundred fifty (20/150) or ~~worse~~ weaker. Waiver ~~to~~ of the above may be considered by the Council if accompanied by the certificate of a vision specialist~~'s certification~~ that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of an adult probation and parole officer. ~~(4-11-06)~~(____)

03. Physical Agility. An applicant for adult probation and parole officer certification must pass the POST Physical Agility Test for Adult Probation and Parole officers. (4-11-06)

062. LAPSE OF ADULT PROBATION AND PAROLE OFFICER CERTIFICATION.

The certification of any adult probation and parole officer will be considered lapsed if the officer does not serve as an adult probation and parole officer in Idaho for three (3) consecutive years. (4-11-06)

01. Three to Five Years. An adult probation and parole officer who has been out of full-time adult probation and parole officer status from three (3) to five (5) years and who wants to be recertified must meet the following POST requirements: (4-11-06)

a. Submit a POST Certification Adult Probation and Parole Challenge Packet; (4-11-06)

b. Pass the following tests administered by a POST Training Specialist: (4-11-06)

i. The POST adult probation and parole certification examination approved by the Council, conducted in the manner set forth in Subsection 053.02.b. of these rules; ~~*and*~~ ~~*(4-11-06)*~~(____)

ii. The POST Firearms Qualification Course; (____)

iii. The POST Adult Probation and Parole Officer Physical Agility Test; and (4-11-06)

c. Satisfactorily complete a probationary period of not less than six (6) months. (4-11-06)

02. Over Five Years. An adult probation and parole officer who has been out of full-time adult probation and parole officer status for over five (5) years must attend the POST Basic Adult Probation and Parole Academy to be recertified. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time adult probation and parole officer status, the officer was engaged in an occupation requiring adult probation and parole officer training, skill, and experience. This evidence must be submitted with a POST Certification Adult Probation and Parole Challenge Packet. Upon receiving a waiver, the officer must meet the following POST requirements: (4-11-06)

a. Attend and pass Idaho POST-certified courses in Arrest Techniques and Practical Problems; (4-11-06)

b. Pass the following tests administered by a POST Training Specialist: (4-11-06)

i. The POST adult probation and parole certification examination approved by the Council, conducted in the manner set forth in Subsection 053.02.b. of these rules; ~~*and*~~ ~~*(4-11-06)*~~(____)

ii. The POST Firearms Qualification Course; (____)

iii. The POST Adult Probation and Parole Officer Physical Agility Test; and (4-11-06)

c. Satisfactorily complete a probationary period of not less than six (6) months.

(4-11-06)

03. Over Eight Years. An adult probation and parole officer who has been out of full-time adult probation and parole officer status for over eight (8) years must attend the POST Basic Adult Probation and Parole Academy to be recertified. No waiver of this requirement will be granted by the Council. (4-11-06)

063. ADULT PROBATION AND PAROLE OFFICER CERTIFICATION.

01. Mandatory Certification. Every adult probation and parole officer employed after July 1, 2005 must be certified by the Peace Officer Standards and Training Council within one (1) year after first being appointed unless granted additional time to complete certification by the POST Council as set forth in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Subsection 030.1~~6~~1. ~~(4-11-06)~~( )

02. Voluntary Certification. Adult probation and parole officers employed prior to July 1, 2005, although specifically excluded by law from meeting the requirements set by the Council, may be certified provided they meet the minimum requirements for certification as prescribed in Sections 022, 061, and 064 of these rules. However, the requirement for successful completion of the POST Basic Adult Probation and Parole Academy will be waived if the officer scores a minimum of seventy-five percent (75%) on the POST adult probation and parole certification examination approved by the Council. The applicant will be allowed two (2) attempts to pass the examination. The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. If an officer fails both attempts or fails to retake the examination within six (6) months, he must successfully complete the POST Basic Adult Probation and Parole Academy to be certified. This option closes on June 30, 2009. (3-30-07)

064. THE BASIC CERTIFICATE.
In addition to the requirements set forth in Sections 022 and 061 of these rules, the requirements in Section 064 of these rules are necessary for award of the Basic Adult Probation and Parole Officer certificate. (4-11-06)

01. Probation. The applicant must have satisfactorily completed at least a six (6) month probationary period, which may include basic adult probation and parole academy time. The probationary period may be extended by the appointing agency which could delay certification until the probationary period is satisfactorily completed. This six (6) months' time must be continuous with the agency the officer is appointed to when applying for certification. The probationary period must not extend over one (1) year for certification purposes. (4-11-06)

02. Basic Training. The applicant must have satisfactorily completed the POST Basic Adult Probation and Parole Academy. (4-11-06)

03. Firearms Qualification. The applicant must have passed the POST Firearms Qualification Course. ( )

0~~3~~4. Adult Probation and Parole Field Training Manual. The applicant must have satisfactorily completed forty (40) hours of POST-approved adult probation and parole field training. (4-11-06)

065. CHALLENGING THE BASIC ADULT PROBATION AND PAROLE ACADEMY. Any adult probation and parole officer presently appointed by the Idaho Department of Correction who, within the last five (5) years, has been employed and certified or commissioned by another state or the federal government as an adult probation and parole officer or a student who has satisfactorily completed a Basic Adult Probation and Parole Academy equivalent to the Idaho POST Basic Adult Probation and Parole Academy within the last three (3) years will be eligible for certification in the state of Idaho without attending the Basic Adult Probation and Parole Academy, provided the officer: (4-11-06)

01. Submission of Challenge Packet. Submits a POST Certification Adult Probation and Parole Challenge Packet to POST Council, which must include copies of POST training records from other states to substantiate the officer's training; and transcripts, certificates, diplomas, or other documents that substantiate the officer's education and experience; (4-11-06)

02. Attends and Passes POST-Certified Courses. Attends and passes Idaho POST-certified courses in Arrest Techniques and Practical Problems; (4-11-06)

03. Passes Required Tests. Passes the following tests administered by a POST Training Specialist: (4-11-06)

a. The POST adult probation and parole certification examination approved by the Council, conducted in the manner set forth in Subsection 053.02.b. of these rules; ~~*and*~~ ~~*(4-11-06)*~~(____)

b. The POST Firearms Qualification Course; and (____)

~~***b***~~**c.** The POST Adult Probation and Parole Officer Physical Agility Test~~*; and*~~. ~~*(4-11-06)*~~(____)

04. Completes Probationary Period. Completes his probationary period as required by Subsection 064.01 of these rules. (4-11-06)

IDAPA 21 - DIVISION OF VETERANS SERVICES

21.01.01 - RULES GOVERNING ADMISSION, RESIDENCY, AND MAINTENANCE CHARGES IN IDAHO STATE VETERANS HOMES AND DIVISION OF VETERANS SERVICES ADMINISTRATIVE PROCEDURE

DOCKET NO. 21-0101-0701

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE.

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 65-202, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 1, 2007 Idaho Administrative Bulletin, Vol. 07-8, pages 119 through 125.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact David E. Brasuell, Administrator, at (208) 334-3513.

DATED this 30th day of August, 2007.

David E. Brasuell
Administrator
Division of Veterans Services
320 Collins Rd.
Boise, Idaho 83702
(208) 334-3513 phone
(208) 334-2627 fax

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Section 65-202, 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, 2007.

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:

These rules are being proposed to clarify the existing rules sections. The proposed changes will provide definitions of previously undefined terms; clarify definitions; provide increased detail on the basis for discharge from a veterans home; and, revise the look back period for disposal of assets to match federal program requirements.

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

No fees or charges are being imposed or increased.

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:

This rulemaking will not result in any negative fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes simply clarify existing rules or are necessary to meet federal program requirements.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact David E. Brasuell, Administrator, at (208) 334-3513.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2007.

DATED this 28th day of June 2007.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

004. INCORPORATION BY REFERENCE.
IDAPA 21.01.01, "Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure," incorporates by reference 5 U.S.C. Section 2108(1) ~~*(a), (b) and (c)*~~ (~~*October 31, 1998*~~ January 6, 2006). Electronic copies are available at uscode.house.gov/uscaddr.htm. Printed copies are available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954. ~~*(4-11-06)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.
For the purposes of the rules contained in this Chapter, the following terms are used as defined: (3-15-02)

01. Applicant. A person who has expressed interest in applying for residency in an Idaho State Veterans Home. (3-30-01)

02. Asset. Real or personal property that is owned in whole or in part by an applicant or resident, including stocks, bonds, goods, rights of action, evidences of debt, and cash or money that is not income. Insurance payments or monetary compensation for loss of or damage to an asset is an asset. Income not expended in the calendar month received is an asset beginning on the first day of the next calendar month. ( )

0~~2~~3. Bona Fide Resident. A person who maintains a principal or primary home or place of abode in the state of Idaho coupled with the present intent to remain at that home or abode and return to it after any period of absence pursuant to Section 66-901, Idaho Code. (3-30-01)

0~~3~~4. Commission. The Idaho Veterans Affairs Commission. (3-30-01)

0~~4~~5. County Service Officer. A person appointed by the county to provide assistance to veterans in accordance with Section 65-601, Idaho Code. (3-30-01)

~~***05. Department****. The Idaho Department of Self Governing Agencies.* *(3-30-01)*~~

06. Division. Division of Veterans Services in the Idaho Department of Self Governing Agencies. (3-30-01)

07. Division Administrator. The Administrator of the Division of Veterans Services in the Department of Self Governing Agencies, or his designee. The chief officer of the Division of Veterans Services. (3-30-01)

08. **Home Administrator**. Administrator of an Idaho State Veterans Home. The chief officer of each respective Veterans Home. (3-30-01)

09. **Home**. An Idaho State Veterans Home. (3-30-01)

10. **Idaho State Veterans Home**. Pursuant to Section 66-901, Idaho Code, a Home for eligible veterans. (3-30-01)

11. **Income**. Money received from any source including wages, tips, commissions, private pension and retirement payments, social security benefits, unemployment compensation, veterans assistance benefits, and gifts. (____)

1~~1~~2. **Legal Dependents**. The mother, father, spouse, or minor children of an applicant or a resident who, by reason of insufficient financial resources, or non-minor children who because of disease, handicap or disability, must have financial support from the applicant or resident in order to maintain themselves. (3-30-07)

1~~2~~3. **Liquid Assets**. Those assets which are cash or can be liquidated for cash within a reasonable period of time including, but not limited to, money market certificates, certificates of deposit, stocks and bonds, and some tax shelter investments. ~~*(3-30-01)*~~(____)

1~~3~~4. **Maintenance Charge**. A charge made for care and residence at an Idaho State Veterans Home, based upon the current established rate. (3-30-01)

1~~4~~5. **Net Income**. That income used to compute charges after allowable deductions have been made. (3-30-01)

1~~5~~6. **Resident**. A person who is a resident of an Idaho State Veterans Home. (3-30-07)

1~~6~~7. **Spouse**. The husband or wife, under a marriage recognized by Title 32, Idaho Code, of a veteran or the widow or widower of a veteran under a marriage recognized by Title 32, Idaho Code. (3-30-07)

1~~7~~8. **VA**. United States Department of Veterans Affairs. (3-30-01)

1~~8~~9. **Veteran**. Shall have the meaning established in Section 65-203, Idaho Code. The separation or discharge considered under this definition shall mean the conditions of the most recent separation or discharge from military service. ~~*(3-30-01)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

350. ~~***PENALTY FOR RESIDENTIAL AND NURSING CARE***~~ **DISCHARGE OF RESIDENTS.**
~~*Upon determination that a*~~ A resident ~~*has failed to comply with an order or rule of a Home or the*~~

~~Division, the Home Administrator must notify the resident, in writing, of pending disciplinary action which~~ can ~~include~~ be discharged, for a period to be determined by the Home Administrator, ~~if:~~ for the bases set forth in Section 350. The Home Administrator will provide notice of discharge and the opportunity to appeal a discharge in accordance with Section 982 of these rules. ~~(3-20-04)~~(____)

01. ~~**An**~~ **Emergency** ~~**Exists**~~ **Discharge**. Upon determination by the Home Administrator that an emergency exists, a resident may be immediately discharged. ~~(3-20-04)~~(____)

02. ~~**Certain Acts are Committed**~~ **General Discharge**. If ~~T~~the Home Administrator determines that ~~a resident has committed~~ one (1) or more of the following ~~acts~~ is present or has occurred, the resident may be given notice in accordance with Subsection 982.03 of these rules and discharged from the Home: ~~(3-20-04)~~(____)

a. Possession of a lethal weapon of any kind ~~or~~ by the resident on Division property; possession of wine, beer, or liquor~~,~~ by the resident on Division property; or possession of a controlled substance or medication by the resident, unless prescribed by the resident's ~~primary care~~ physician; ~~(3-30-01)~~(____)

b. The resident's ~~E~~excessive or habitual intoxication; ~~(3-30-01)~~(____)

c. ~~Disturbing~~ Disruption of the peace of the Home by the resident; ~~(3-30-01)~~(____)

d. The resident ~~Striking~~ strikes or ~~threatening~~ threatens harm to another person; ~~(3-30-01)~~(____)

e. The resident ~~W~~willfully ~~destruction~~ destroys or wrongfully appropriat~~ion~~es ~~of~~ state or another person's property; ~~(3-30-01)~~(____)

f. ~~Commission of~~ The resident commits a felony; ~~(3-30-01)~~(____)

g. The resident uses ~~A~~abusive language or gestures or intentionally commits assault or battery; ~~(3-30-01)~~(____)

h. ~~Willful disobedience or persistent violations of Home~~ The resident fails to comply with the rules of this Chapter or a written directive of the Home Administrator or the Division Administrator; ~~(3-30-01)~~(____)

i. ~~Refusal or failure to pay established charges (see Sections 880 through 980)~~ The financial conditions set forth in Section 950 of these rules are present; ~~(3-30-01)~~(____)

j. ~~Any~~ The resident engages in a pattern of behavior that infringes upon the rights of another person; ~~(3-30-01)~~(____)

k. The resident has ~~U~~unauthorized absences from the Home~~.~~ in excess of those permitted by Section 352 of these rules; ~~(3-30-01)~~(____)

l. Continued residency at the Home by the resident presents a danger to the resident or other persons. ( )

m. The resident is required by law to register as a sex offender and the Home has determined that the Home must provide resources in excess of those provided to other residents to ensure the safety of the resident or other persons. ( )

n. The resident does not meet the requirements and limitations set forth in Section 100 of these rules. ( )

351. ~~*PENALTY FOR DOMICILIARY RESIDENTS*~~ (RESERVED).
~~*Upon determination that a resident has failed to comply with an order or rule of a Home or the Division, the Home Administrator must notify the resident, in writing, of pending disciplinary action which can include immediate discharge for a period to be determined by the Home Administrator, if:*~~ ~~*(3-20-04)*~~

~~***01. An Emergency Exists****. Upon determination by the Home Administrator that an emergency exists, a resident may be immediately discharged.*~~ ~~*(3-20-04)*~~

~~***02. Certain Acts Are Committed****. If the Home Administrator determines that a domiciliary resident has committed one (1) or more of the following acts, the resident will be given notice in accordance with Subsection 982.03 and immediately discharged from the Home.*~~ ~~*(3-20-04)*~~

~~***a.*** *Possession of wine, beer, liquor, controlled substance or medication unless prescribed by the resident's primary care physician, or a lethal weapon of any kind in the Home;*~~ ~~*(3-20-04)*~~

~~***b.*** *Excessive intoxication;*~~ ~~*(3-30-01)*~~

~~***c.*** *Disturbing the peace;*~~ ~~*(3-30-01)*~~

~~***d.*** *Striking or threatening another person;*~~ ~~*(3-30-01)*~~

~~***e.*** *Willful destruction or wrongful appropriation of state or another person's property;*~~ ~~*(3-30-01)*~~

~~***f.*** *Commission of a felony;*~~ ~~*(3-30-01)*~~

~~***g.*** *Abusive language or gestures, assault or battery.*~~ ~~*(3-30-01)*~~

~~***03. Acts for Which Notice of Discharge May Be Given****. The resident may be given notice of his eventual discharge in accordance with Subsection 982.03 for any of the following acts:*~~ ~~*(3-20-04)*~~

~~***a.*** *Habitual intoxication;*~~ ~~*(3-30-01)*~~

~~***b.*** *Willful disobedience or persistent violations of Home rules;*~~ ~~*(3-30-01)*~~

~~***c.*** *Refusal or failure to pay established charges (see Sections 880 through 980);* *(3-30-01)*~~

~~***d.*** *Any pattern of behavior that infringes upon the rights of another person;(3-30-01)*~~

~~***e.*** *Unauthorized absences.* *(3-30-01)*~~

(BREAK IN CONTINUITY OF SECTIONS)

950. FINANCIAL GROUNDS FOR REJECTION OR DISCHARGE.
The following circumstances may be considered as grounds for rejection of an application for residency or for revocation of residency and subsequent discharge. (When an application is rejected or a resident discharged, the applicant/resident will be given written notification of his intended application rejection or his discharge, in accordance with the provisions in Subsection 982.03.) (3-30-01)

01. Disposal of Assets. If the Home Administrator determines that an applicant/ resident has disposed of assets following or within ~~*thirty*~~ sixty (~~*3*~~60) months preceding initial application for residency, which would have the effect of reducing his maintenance charge, such action can lead to rejection of the application or discharge from a Home. ~~*(3-20-04)*~~(____)

02. Failure to Pay Maintenance Charge. Refusal or failure to pay the established maintenance charge can be cause for discharge from a Home. If the resident is so discharged, or leaves a Home voluntarily, he will not be eligible for readmission to a Home until all indebtedness to the Home is paid in full, or acceptable arrangements have been made with the Home Administrator for repayment. (3-30-01)

03. Failure to Pay for Services. (3-30-01)

a. Residents who are excluded from receiving free services from a VA Medical Center may elect to purchase such services through a sharing agreement or contract between a Home and a VA Medical Center or an outside provider when such sharing agreement or contract exists. In those cases where sharing agreement or contract costs are borne by a Home, the resident must reimburse the Home for the costs of services provided. (3-30-01)

b. Failure to reimburse a Home or a service provider within ten (10) days after receipt of a bill for services provided under a sharing agreement or contract may result in a resident's discharge from the Home. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

982. PROVISIONS FOR CONTESTED CASES.

01. Inapplicability of Idaho Rules of Administrative Procedure of the Attorney General. All contested cases shall be governed by the provisions of these rules. The Veterans Affairs Commission and Administrator of the Division of Veterans Services find that the provisions of IDAPA 04.11.01.000, et seq., Idaho Rules of Administrative Procedure of the Attorney General, are inapplicable and inappropriate for contested cases before the Veterans Affairs Commission, because of the specific and unique requirements of federal and state law regarding notices, hearing processes, procedural requirements, time lines, and other provisions requiring the Division to adopt its own procedures pursuant to Section 67-5206(5)(b), Idaho Code, and hereby affirmatively promulgate and adopt alternative procedures and elect not to be governed by any of the provisions of IDAPA 04.11.01.000, et seq., "Idaho Rules of Administrative Procedure of the Attorney General." (3-30-01)

02. Hearing Rights. Through compliance with these rules, residents and applicants have the following rights to a hearing: (3-30-01)

a. If a resident of a Home is notified of pending disciplinary action, including discharge, the resident will be afforded an opportunity for a hearing with the Veterans Affairs Commission. A resident of a Home must attempt to resolve the violations stated on the notice of action through verbal discussions with the Home Administrator or his designee prior to submission of a written request for a hearing before the Commission. (3-20-04)

b. If an application for residency in a Home is rejected, the applicant may request a hearing before the Veterans Affairs Commission. (3-30-01)

c. If an application for emergency relief is denied, the applicant may request a hearing before the Veterans Affairs Commission. (3-30-01)

03. Notice of Action. The Home Administrator or his designee must notify the applicant/resident of any action to be taken regarding rejection of an application or discharge from a Home. (3-20-04)

a. The notice of intended action must be in writing. (3-30-01)

b. The notice must state the following: (3-30-01)

i. The reason for the impending action and a reference to the pertinent rules under which the action is being brought or decision has been made; (3-30-01)

ii. The effective date of the action; (3-30-01)

iii. The applicant's/resident's right to request a hearing according to the provisions in Section 982 of these rules; and ~~(3-30-01)~~( )

iv. The procedure for requesting a hearing before the Commission, as provided in Subsection 982.05 of these rules. ~~(3-30-01)~~( )

c. The following notification deadlines are established for Domiciliary Care only:

(3-30-01)

i. Discharge notices must be sent to the resident three (3) days prior to the intended effective date of the action, except under the conditions noted in Subsection 35~~1~~0.01 of these rules. ~~(3-20-04)~~( )

ii. Notification of findings of ineligibility for residency will be mailed to the applicant within three (3) working days after receipt of the completed application citing the reasons for rejection. (3-30-01)

d. The following notification deadlines are established for Residential Care only: (3-30-01)

i. Discharge notices must be sent to the resident fifteen (15) days prior to the intended effective date of the action, except under the conditions noted in Subsection 350.01 of these rules. ~~(3-20-04)~~( )

ii. Notification of findings of ineligibility for residency will be mailed to the applicant within three (3) working days after receipt of the completed application citing the reasons for rejection. (3-30-01)

e. The following notification deadlines are established for Nursing Care only: (3-30-01)

i. Discharge notices must be sent to the resident thirty (30) days prior to the intended effective date of the action, except under the conditions noted in Subsection 350.01 of these rules. ~~(3-20-04)~~( )

ii. Notification of findings of ineligibility for residency will be mailed to the applicant within three (3) working days after receipt of the completed application citing the reasons for rejection. (3-30-01)

04. Notice of Denial of Emergency Relief. The Veterans Services Program Supervisor or his designee must notify the applicant of the denial of his application for emergency relief. (3-30-01)

a. The notice of denial must be in writing. (3-30-01)

b. The notice must state the following: (3-30-01)

i. The reason for denial and a reference to the pertinent rules under which the denial was made; and (3-30-01)

ii. The applicant's right to request a hearing according to the provisions in these rules; and (3-30-01)

iii. The procedure for requesting a hearing before the Commission, as provided in Subsection 982.05 of these rules. ~~(3-30-01)~~( )

c. Notice of denial of emergency relief will be mailed to the applicant within three (3) working days after receipt of the completed application. (3-30-01)

05. Requesting a Hearing. (3-30-01)

a. A request for a hearing from a resident or an applicant for residency in an Idaho State Veterans Home must be submitted through the Home Administrator to the Division Administrator for possible resolution or scheduling before the Commission. A resident's request must contain a description of what effort he has taken to satisfy the requirements of Subsection 982.02.a. of these rules. Any hearing conducted in accordance with these provisions will be held during either a regular or special meeting of the Commission. ~~(3-30-01)~~(____)

b. A request for a hearing from an applicant for emergency relief must be submitted through the Veterans Services Program Supervisor to the Division Administrator for possible resolution or scheduling before the Commission. Any hearing conducted in accordance with these provisions will be held during either a regular or special meeting of the Commission. (3-30-01)

c. A request for a hearing must be in writing and signed by the applicant/resident. (3-30-01)

d. A request for a hearing must be submitted within three (3) days of receipt of the written notice of action or denial. (3-30-01)

e. Pending a hearing, benefits will be continued or held in abeyance as follows: (3-30-01)

i. Benefits for domiciliary care residents will be continued if the hearing request is made before the effective date of action and within three (3) days of receipt of the notice. No action will be taken by the Home Administrator pending receipt of the written decision of the Commission following the hearing, except under the conditions noted in Subsection 35~~1~~0.01.a. of these rules. ~~(3-30-01)~~(____)

ii. Benefits for residential care residents will be continued if the hearing request is made before the effective date of action and within three (3) days of receipt of the notice. No action will be taken by the Home Administrator pending receipt of the written decision of the Commission following the hearing, except under the conditions noted in Subsection 350.01.a. of these rules. ~~(3-30-01)~~(____)

iii. Benefits for nursing care residents will be continued if the hearing request is made before the effective date of action and within three (3) days of receipt of the notice. No action will be taken by the Home Administrator pending receipt of the written decision of the Commission following the hearing, except under the conditions noted in Subsection 350.01.a. of these rules. ~~(3-30-01)~~(____)

iv. Benefits for emergency relief applicants will not be granted until the Commission renders a written decision following the hearing. (3-30-01)