

TITLE 33
EDUCATION

CHAPTER 2
ATTENDANCE AT SCHOOLS

33-201. SCHOOL AGE. The services of the public schools of this state are extended to any acceptable person of school age. "School age" is defined as including all persons resident of the state, between the ages of five (5) and twenty-one (21) years. For the purposes of this section, the age of five (5) years shall be attained when the fifth anniversary of birth occurs on or before the first day of September of the school year in which the child is to enroll in kindergarten. For a child enrolling in the first grade, the age of six (6) years must be reached on or before the first day of September of the school year in which the child is to enroll. Any child of the age of five (5) years who has completed a private or public out-of-state kindergarten for the required four hundred fifty (450) hours but has not reached the "school age" requirement in Idaho shall be allowed to enter the first grade.

For resident children with disabilities who qualify for special education and related services under the federal individuals with disabilities education act (IDEA) and subsequent amendments thereto, and applicable state and federal regulations, "school age" shall begin at the attainment of age three (3) and shall continue through the semester of school in which the student attains the age of twenty-one (21) years.

[33-201, added 1963, ch. 13, sec. 24, p. 27; am. 1975, ch. 42, sec. 3, p. 73; am. 1988, ch. 290, sec. 1, p. 928; am. 1989, ch. 126, sec. 1, p. 277; am. 1993, ch. 121, sec. 1, p. 311; am. 1996, ch. 311, sec. 1, p. 1019; am. 1998, ch. 23, sec. 1, p. 138.]

33-202. SCHOOL ATTENDANCE COMPULSORY. The parent or guardian of any child resident in this state who has attained the age of seven (7) years at the time of the commencement of school in his district, but not the age of sixteen (16) years, shall cause the child to be instructed in subjects commonly and usually taught in the public schools of the state of Idaho. To accomplish this, a parent or guardian shall either cause the child to be privately instructed by, or at the direction of, his parent or guardian; or enrolled in a public school or public charter school, including an on-line or virtual charter school or private or parochial school during a period in each year equal to that in which the public schools are in session; there to conform to the attendance policies and regulations established by the board of trustees, or other governing body, operating the school attended.

[33-202, added 1963, ch. 13, sec. 25, p. 27; am. 1992, ch. 243, sec. 1, p. 721; am. 2009, ch. 103, sec. 2, p. 318.]

33-203. DUAL ENROLLMENT. (1) The parent or guardian of a child of school age who is enrolled in a nonpublic school or a public charter school shall be allowed to enroll the student in any public school, including another public charter school, for dual enrollment purposes. The board of trustees of the school district or board of directors of the public charter school shall adopt procedures governing enrollment pursuant to this section. If enrollment in a specific program reaches the maximum for the program, priority for enrollment shall be given to a student who is enrolled full time

in the public school. In the case of dual enrollment in a public charter school, the student who is dually enrolled shall not count toward the public charter school's maximum enrollment restrictions. The dually enrolled student's primary education provider shall be the provider in which the student is registered for the majority of the coursework. At no time may the dual enrollment provisions be used to circumvent a public charter school's lottery requirements.

(2) Any student participating in dual enrollment may enter into any program in the public school available to other students, subject to compliance with the eligibility requirements herein and the same responsibilities and standards of behavior and performance that apply to any student's participation in the activity, except that the academic eligibility requirements for participation in nonacademic activities are as provided for herein.

(3) All schools shall be allowed to include dually enrolled nonpublic school and public school students for the purposes of state funding only to the extent of the student's participation in the public school programs.

(4) Oversight of academic standards relating to participation in nonacademic public school activities shall be the responsibility of the primary education provider for that student. In order for any nonpublic school student or public school student to participate in nonacademic public school activities for which public school students must demonstrate academic proficiency or eligibility, the nonpublic school or public school student shall demonstrate composite grade-level academic proficiency on any state board of education recognized achievement test, portfolio, or other mechanism as provided for in state board of education rules. Additionally, a student shall be eligible if he achieves a minimum composite, core or survey test score within the average or higher-than-average range as established by the test service utilized on any nationally normed test. Demonstrated proficiency shall be used to determine eligibility for the current and next following school years. School districts and public charter schools shall provide to nonpublic students who wish to participate in dual enrollment activities the opportunity to take state tests or other standardized tests given to all regularly enrolled public school students.

(5) A public school student who has been unable to maintain academic eligibility is ineligible to participate in nonacademic public school activities as a nonpublic school or public charter school student for the duration of the school year in which the student becomes academically ineligible and for the following academic year.

(6) A nonpublic school or public school student participating in nonacademic public school activities must reside within the attendance boundaries of the school for which the student participates.

(7) Dual enrollment shall include the option of joint enrollment in a regular public school and an alternative public school program. The state board of education shall establish rules that provide funding to school districts for each student who participates in both a regular public school program and an alternative public school program.

(8) Dual enrollment shall include the option of enrollment in a post-secondary institution. Any credits earned from an accredited postsecondary institution shall be credited toward state board of education high school graduation requirements.

(9) A nonpublic student is any student who receives educational instruction outside a public school classroom and such instruction can include, but is not limited to, a private school or a home school.

[33-203, added 1995, ch. 224, sec. 1, p. 775; am. 1999, ch. 387, sec. 1, p. 1082; am. 2002, ch. 106, sec. 1, p. 289; am. 2017, ch. 62, sec. 1, p. 151.]

33-204. EXEMPTION FOR CAUSE. When a licensed physician or psychiatrist shall state in writing to the board of trustees of a school district that the physical, mental or emotional condition of a child does not permit attendance at school, and a petition is filed with the board by the parent or guardian of the child requesting such child to be exempt from the provisions of section [33-202](#), the board of trustees may at its discretion grant the requested exemption during the existence of such condition. The board may, from time to time as it may determine, require additional examination of the child and a report thereon.

[33-204, added 1963, ch. 13, sec. 27, p. 27.]

33-205. DENIAL OF SCHOOL ATTENDANCE. (1) The board of trustees may deny enrollment, or may deny attendance at any of its schools by expulsion, to any pupil who is a habitual truant, or who is incorrigible, or whose conduct, in the judgment of the board, is such as to be continuously disruptive of school discipline or of the instructional effectiveness of the school, or whose presence in a public school is detrimental to the health and safety of other pupils, or who has possessed a deadly or dangerous weapon or firearm on school property, or who has been expelled from another school district in this state or any other state. Any pupil having been denied enrollment or expelled may be enrolled or readmitted to the school by the board of trustees upon such reasonable conditions as may be prescribed by the board; but such enrollment or readmission shall not prevent the board from again expelling such pupil for cause.

(2) Provided however, the board shall expel from school for a period of not less than one (1) year, twelve (12) calendar months, or may deny enrollment to a student who has been found to have possessed a firearm on school property in this state or any other state. The board may modify such expulsion or denial of enrollment requirement on a case-by-case basis when the board determines reasonable conditions apply and the student's presence is not detrimental to the health and safety of other students. Discipline of students with disabilities shall be in accordance with the requirements of federal law part B of the individuals with disabilities education act and section 504 of the rehabilitation act. An authorized representative of the board shall report such student and incident to the appropriate law enforcement agency.

(3) No pupil shall be expelled or denied enrollment without the board of trustees having first given written notice to the parent or guardian of the pupil, which notice shall state the grounds for the proposed expulsion or denial of enrollment and the time and place where such parent or guardian may appear to contest the action of the board to deny school attendance and which notice shall state the rights of the pupil to be represented by counsel, to produce witnesses and submit evidence on his own behalf, and to cross-examine any adult witnesses who may appear against him. Within a reasonable period of time following such notification, the board of trustees shall grant

the pupil and his parents or guardian a full and fair hearing on the proposed expulsion or denial of enrollment. However, the board shall allow a reasonable period of time between such notification and the holding of such hearing to allow the pupil and his parents or guardian to prepare their response to the charge. Notwithstanding the provisions of sections [74-205](#) and [74-206](#), Idaho Code, a decision to expel or to deny enrollment of a student may be made in executive session, and the student shall not be named in the minutes of the meeting. A record of the decision shall be placed in the student's educational record and in the official records of the board. Any pupil within the age of compulsory attendance who is expelled or denied enrollment as herein provided shall come under the purview of the juvenile corrections act, and an authorized representative of the board shall, within five (5) days, give written notice of the pupil's expulsion to the prosecuting attorney of the county of the pupil's residence.

(4) The superintendent of any district or the principal of any school may temporarily suspend any pupil for disciplinary reasons, including student harassment, intimidation or bullying, or for other conduct disruptive of good order or of the instructional effectiveness of the school. A temporary suspension by the principal shall not exceed five (5) school days, and the school superintendent may extend the temporary suspension an additional ten (10) school days. Provided, that on a finding by the board of trustees, which finding must be made in executive session, that immediate return to school attendance by the temporarily suspended student would be detrimental to other pupils' health, welfare, or safety, the board of trustees may extend the temporary suspension for an additional five (5) school days. Prior to suspending any student, the superintendent or principal shall grant an informal hearing on the reasons for the suspension and the opportunity to challenge those reasons. Any pupil who has been suspended may be readmitted to the school by the superintendent or principal who suspended him upon such reasonable conditions as said superintendent or principal may prescribe. The board of trustees shall be notified of any temporary suspensions, the reasons therefor, and the response, if any, thereto.

(5) The board of trustees of each school district shall establish the procedure to be followed by the superintendent and principals under its jurisdiction for the purpose of effecting a temporary suspension, which procedure must conform to the minimal requirements of due process and afford the pupil privacy.

(6) As used in this section, "possess," "deadly or dangerous weapon," and "firearm" have the same meanings as provided in section [18-3302D](#), Idaho Code.

[33-205, added 1963, ch. 13, sec. 28, p. 27; am. 1973, ch. 294, sec. 1, p. 618; am. 1976, ch. 86, sec. 1, p. 293; am. 1978, ch. 67, sec. 1, p. 135; am. 1992, ch. 47, sec. 1, p. 149; am. 1995, ch. 248, sec. 2, p. 820; am. 1995, ch. 250, sec. 1, p. 825; am. 1995, ch. 252, sec. 1, p. 827; am. 1998, ch. 186, sec. 1, p. 680; am. 2002, ch. 348, sec. 1, p. 994; am. 2006, ch. 313, sec. 1, p. 969; am. 2021, ch. 182, sec. 1, p. 502; am. 2021, ch. 290, sec. 1, p. 869; am. 2022, ch. 111, sec. 21, p. 381.]

33-206. HABITUAL TRUANT DEFINED. (1) An habitual truant is:

(a) Any public school pupil who, in the judgment of the board of trustees, or the board's designee, repeatedly has violated the attendance regulations established by the board; or

(b) Any child whose parents or guardians, or any of them, have failed or refused to cause such child to be instructed as provided in section [33-202](#), Idaho Code.

(2) A child who is an habitual truant shall come under the purview of the juvenile corrections act if he or she was within the age of compulsory attendance at the time of the violations.

[33-206, added 1963, ch. 13, sec. 29, p. 27; am. 2002, ch. 348, sec. 2, p. 996; am. 2005, ch. 60, sec. 1, p. 217; am. 2010, ch. 278, sec. 1, p. 718.]

33-207. PROCEEDINGS AGAINST PARENTS OR GUARDIANS. (1) Whenever the parents or guardians of any child between the ages of seven (7) years, as qualified in section [33-202](#), Idaho Code, and sixteen (16) years, have failed, neglected or refused to place the child in school as provided in this chapter or to have the child instructed as defined in section [33-202](#), Idaho Code, or knowingly have allowed a pupil to become an habitual truant, proceedings shall be brought against such parent or guardian under the provisions of the juvenile corrections act or as otherwise provided in subsection (2) of this section.

(2) Whenever it is determined by the board of trustees of any school district that a child enrolled in public school is an habitual truant, as defined in section [33-206](#), Idaho Code, an authorized representative of the board shall notify in writing the prosecuting attorney in the county of the child's residence. Proceedings may be brought directly against any parent or guardian of a public school pupil who is found to have knowingly allowed such pupil to become an habitual truant, and such parent or guardian shall be guilty of a misdemeanor.

(3) Whenever it is determined by the board under provisions providing due process of law for the student and his or her parents that the parents or guardians of any child not enrolled in a public school are failing to meet the requirements of section [33-202](#), Idaho Code, an authorized representative of the board shall notify in writing the prosecuting attorney in the county of the pupil's residence and recommend that a petition shall be filed in the magistrates division of the district court of the county of the pupil's residence, in such form as the court may require under the provisions of section [20-510](#), Idaho Code.

[33-207, added 1963, ch. 13, sec. 30, p. 27; am. 2004, ch. 23, sec. 5, p. 28; am. 2005, ch. 60, sec. 2, p. 217; am. 2009, ch. 103, sec. 3, p. 319.]

33-208. KINDERGARTENS AND CHILD ATTENDANCE NOT COMPULSORY. It shall not be compulsory for individual school districts to establish a kindergarten program; and it shall not be mandatory for a child who is eligible by age for attendance to enroll in an established public kindergarten.

[I.C., sec. 33-208, as added by 1975, ch. 42, sec. 2, p. 73.]

33-209. TRANSFER OF STUDENT RECORDS -- DUTIES. Whenever a student transfers from one (1) school to another, within the district, within the state, or elsewhere, and the sending school is requested to forward student records, the sending school shall respond by forwarding a certified copy of the transferred student's record within ten (10) days, except as provided in

section [18-4511](#), Idaho Code. When the school record contains information concerning violent or disruptive behavior or disciplinary action involving the student, this information shall be included in the transfer of records but shall be contained in a sealed envelope, marked to indicate the confidential nature of the contents, and addressed to the principal or other administrative officer of the school.

The parent or guardian of a student transferring from out-of-state to a school within the state of Idaho is required, if requested, to furnish the school within this state accurate copies of the student's school records, including records containing information concerning violent or disruptive behavior or disciplinary action involving the student. This information shall be contained in a sealed envelope, marked to indicate the confidential nature of the contents, and addressed to the principal or other administrative officer of the school.

Failure of the parent or guardian to furnish the required records, or failure to request of the administration of the previous school to provide the required records, shall constitute adequate grounds to deny enrollment to the transferring student or to suspend or expel the student if already enrolled.

[33-209, added 1994, ch. 174, sec. 1, p. 401; am. 1998, ch. 186, sec. 2, p. 681.]

33-210. STUDENTS USING OR UNDER THE INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCES. (1) It is legislative intent that parental involvement in all aspects of a child's education in the public school system remain a priority. Substance abuse prevention programs and counseling for students attending public schools are no exception. Consequently, it is the duty of the board of trustees of each school district, including specially chartered school districts, and governing boards of charter schools, to adopt and implement policies specifying how personnel shall respond when a student discloses or is reasonably suspected of using or being under the influence of alcohol or any controlled substance defined by section [37-2732C](#), Idaho Code. Such policies shall include provisions that anonymity will be provided to the student on a faculty "need to know" basis, when a student voluntarily discloses using or being under the influence of alcohol or any controlled substance while on school property or at a school function, except as deemed reasonably necessary to protect the health and safety of others. Notification of the disclosure and availability of counseling for students shall be provided to parents, the legal guardian or child's custodian. However, once a student is reasonably suspected of using or being under the influence of alcohol or a controlled substance in violation of section [37-2732C](#), Idaho Code, regardless of any previous voluntary disclosure, the school administrator or designee shall contact the student's parent, legal guardian or custodian, and report the incident to law enforcement. The fact that a student has previously disclosed use of alcohol or a controlled substance shall not be deemed a factor in determining reasonable suspicion at a later date.

(2) In addition to policies adopted pursuant to this section, students may, at the discretion of the district board of trustees or governing board of a charter school, be subject to other disciplinary or safety policies, regardless whether the student voluntarily discloses or is reasonably suspected of using or being under the influence of alcohol or a controlled

substance in violation of district or charter school policy or section [37-2732C](#), Idaho Code.

(3) The district board of trustees or the governing board of the charter school shall ensure that procedures are developed for contacting law enforcement and the student's parents, legal guardian or custodian regarding a student reasonably suspected of using or being under the influence of alcohol or a controlled substance. District and charter school policies formulated to meet the provisions of section [37-2732C](#), Idaho Code, and this section shall be made available to each student, parent, guardian or custodian by August 31, 2002, and thereafter as provided by section [33-512](#) (6), Idaho Code.

(4) Any school district employee or independent contractor of an educational institution who has a reasonable suspicion that a student is using or is under the influence of alcohol or a controlled substance and, acting upon that suspicion, reports that suspicion to a school administrator or initiates procedures adopted by the board of trustees or governing board of the charter school pursuant to this section, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report. Any person who reports in bad faith or with malice shall not be protected by this section. Employees and independent contractors of educational institutions who intentionally harass a student through the misuse of the authority provided in this section shall not be immune from civil liability arising from the wrongful exercise of that authority and shall be guilty of a misdemeanor punishable by a fine not to exceed three hundred dollars (\$300).

(5) For the purposes of this section, the following definitions shall apply:

(a) "Reasonable suspicion" means an act of judgment by a school employee or independent contractor of an educational institution which leads to a reasonable and prudent belief that a student is in violation of school board or charter school governing board policy regarding alcohol or controlled substance use, or the "use" or "under the influence" provisions of section [37-2732C](#), Idaho Code. Said judgment shall be based on training in recognizing the signs and symptoms of alcohol and controlled substance use.

(b) "Intentionally harass" means a knowing and willful course of conduct directed at a specific student which seriously alarms, annoys, threatens or intimidates the student and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress.

(c) "Course of conduct" means a pattern or series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally and statutorily protected activity is not included within the meaning of "course of conduct."

[33-210, added 1996, ch. 379, sec. 1, p. 1284; am. 1998, ch. 206, sec. 1, p. 732; am. 2002, ch. 353, sec. 1, p. 1007; am. 2006, ch. 244, sec. 2, p. 740.]

33-211. STUDENTS' DRIVER'S LICENSES. The board of trustees of a school district and all employees of the school district are authorized to and shall administer the school district's portion of section [49-303A](#), Idaho Code, relating to driver's licenses and school attendance.

[33-211, added 1996, ch. 348, sec. 6, p. 1167.]

33-212. AUTHORITY TO CLOSE SCHOOLS TO PREVENT THE SPREAD OF INFECTIOUS DISEASE. (1) Notwithstanding any provision of law or rule to the contrary, only the following person or entities shall have the authority to close schools or otherwise limit any aspect of school programs or activities to prevent the spread of contagious or infectious disease:

(a) The governor or state board of education, whose authority may apply statewide or to any area of the state; or

(b) A board of school district trustees as provided in section [33-512](#), Idaho Code, or the board of directors of a public charter school.

(2) Only a person or an entity listed in subsection (1) of this section shall have the authority to require, in schools or during school programs or activities, measures intended to prevent the spread of contagious or infectious disease.

(3) A decision by a person or an entity listed in subsection (1) of this section for schools to remain open or to reopen, or to require or not require measures in schools or during school programs or activities to prevent the spread of contagious or infectious disease, shall not constitute a violation of any order issued by the department of health and welfare pursuant to section [56-1003](#)(7), Idaho Code; a district board of health pursuant to section [39-414](#)(2), Idaho Code; or a city pursuant to section [50-304](#), Idaho Code.

[33-212, added 2021, ch. 14, sec. 2, p. 35.]