

ICBVI Special Board Meeting

Minutes

August 10, 2026

Meeting was called to order at: 11:05 am Mountain Time

Board Members in Attendance in Person:

Board Members in Attendance via Teams: Al Schneider, Britt Raubenheimer, B.J. Stinger

Board Members Absent: LeAnn Gelsky, Mark Watkins

ICBVI Staff in Attendance in Person: Beth Cunningham, Steve Achabal, Angela Starr, Kevin Jernigan

ICBVI Staff in Attendance via Teams: Amy Zapata, Merrilee Jackson, Earl Hoover, Tyler Kuisti, Marcie Chapman, Laurie Carlin, Jeff Weeks, Dawn Ristau, Efren Moreno, Caleb Tibbetts, Jackie Stallings, Rocio Gil, Gayle Worthington

Others in Attendance in Person:

Others on Teams:

Approve agenda – Britt Moved, BJ Seconded

Angela - Our mission is to empower persons who are blind or visually impaired by providing vocational rehabilitation, skills training, and educational opportunities to achieve self-fulfillment through quality employment and independent living.

Beth - Governor Little has a Zero Based regulation initiative. It's an Idaho statewide regulatory reform process that assumes no rule is necessary unless justified. And the purpose is to cut red tape, reduce costs, and streamline compliance. A bit of an overview of Zero Based regulation - it was launched by Governor Little in 2020 through executive order replacing the previous Red Tape Reduction Act which was also from the governor. The initiative's goal is to eliminate or simplify outdated, unnecessary, or overly burdensome regulations, thereby reducing costs for businesses and individuals while maintaining safety, and public welfare. About 20% of all rule chapters are reviewed each year from the office of the governor. And they've kind of shifted the burden of proof. Agencies

must justify keeping a rule rather than having to justify eliminating it. Agencies have to assess whether rule benefits outweigh its costs, whether the less restrictive alternatives exist, and whether it is still necessary to keep that rule. Relating to sunset provisions, rules are now automatic, are not automatically renewed. They must be reauthorized if they are to remain in effect.

It's an efficiency measure, consolidation of agencies and professional licenses to reduce duplication and improve services of the Office of the Governor. So far since 2019, the governor's office has cut or simplified 95% of the regulations, reduced the administrative code from 736 chapters to 381 chapters, and eliminated 250 rule chapters and 1,804 pages of regulation.

So basically, Idaho has become the least regulated state in the US. And that is basically the goal of Zero Based regulations. In 2023, the Idaho legislature made zero based regulations permanent by enshrining it in the state's Administrative Procedure Act requiring agencies to review rule chapters every eight years with the office of the governor. The first eight-year review cycle begins in 2026, and our vocational rehabilitation and independent living rules were in that first review. Caleb has worked really hard in trying to look at the guidelines in terms of the definition of code, the definition of code and statute versus rule versus policy. I'm going to turn it over to him, and then he's going to present to you the changes that we think we should propose. We had to send these proposals on Friday and wanted to bring this to the board to see if you all agree with the proposals that we made. And it's possible that even if you do agree and you approve this proposal, they will come back and still say, no, this is not enough. I'll just turn it over to Caleb, who has done a lot of legwork on this.

Caleb –

We are in step three of eight. And there is an Executive Agency Legislation Manual that you can take a look at. It's only 16 pages, and it outlines all the steps that we're going through as an agency in this eight-year review process, and then what we call EAL:

Executive Agency Legislation. We just completed step 3, submission of proposed

legislation, fiscal note, and statement of purpose. And then step 4, is from the governor's office and DFM, and they are going to approve or disapprove that proposed legislation. And that happens by September 10th. So, about a month from now, we'll get an approval or a disapproval or some back and forth with DFM. And then DFM must deliver approved proposed legislation to LSO by September 14th. And then agencies complete step 5. That's the next thing we'll have to do, which is review of proposed legislation from LSU and submit any revisions to DFM, and that's by October 9th. We thought the special meeting was important to just get it scheduled as soon as we could, which is why we didn't wait until the September board meeting. So that the board and any other interested parties, are all aware of kind of the process that we're going through with DFM and eventually LSO.

Britt –

A quick question. Many years ago, 15 years ago, 10 years ago, when I was on the board, we put the VR process into rule, but I don't remember why we felt having it in rules was better than just having it as a manual or process. Do you know, what is the reason for having things in Idaho rule?

Beth –

One reason I think that could have been, Britt, was to give certain things more teeth in terms of like limits on certain amounts that we spend on things and being able to point to the rule to say no. And I believe that we had revised it in 2022. And then with policy, things are a little easier to change. So, we put some things in policy that we think we would be likely to change more frequently. And then the code or statute is the hardest to change. I failed to say this, and that is that if we are losing some things from rule to statute, the one thing that we do also still have is that the Code of Federal Regulations supersedes all the other stuff, and much of the VR program is in the CFRs.

Caleb –

I want everyone to understand this process as much as possible. I just felt like it was important to kind of tell you the next steps and like why we called this meeting specifically and some of our timelines. So, the next thing that we're waiting for is DFM to respond. That is by September 10th and maybe before. And then we'll have to resubmit any proposed legislation or changes to that by October 9th. So just give you some timelines. And then the next thing I was going to go into is my interpretation of code versus rule versus policy.

There are three different avenues a state agency can use for developing what needs to occur in order for the program to run, right? In order for us to be a state agency, we have to have rules, policies, and laws, right? We call them statute, you can call them laws, or you can call them code. It's the highest agency-specific regulation that you're going to have.

Like Beth said, our code of federal regulation supersedes Idaho code. And then I believe there's Idaho Constitution, which supersedes Idaho code. So, the highest thing that's really going to talk about the Commission for the Blind is going to do such and such is going to be your Idaho code.

Of note, code and rule are both laws. They both carry the same weight, so to speak, and they are both considered laws in the view of the government.

So Idaho codes, that's the big picture. Broad laws that govern the program. They're difficult to change. You have to go through a very specific process. It is literally changing law. And they should only include items that are not likely to need frequent updates because you don't want to go through the it. I was reading something that said basically if you need it updated, it might take years. That's what we're talking about here. Code establishes that our agency exists. It defines our high level mission and it outlines the broad parameters of our program. That is what Idaho Code is intended to do for our agency. And then rule, they have the full force of law. They further define the details of the statutes and law.

Some of the examples of things that we want to keep in rule are things like a \$5,000 limit. Well, we'd really like that to be in rule, not code, because what if we decide one day, 10 years from now, hey, that doesn't really work for us anymore we need it to be 2,000, or hey, we need it to be 7,500, it's going to take a lot to get that code changed. So, keeping it in rule would be beneficial for the agency when

you're thinking about future changes. And then policy is really internal agency policies that enforce or further outline how to carry out the mission of the agency as defined in rule or code. And so those are things like the nitty-gritty getting down to the policy so that if you're an employee of this agency, you really just have to look at policy and know that it's going to reference some codes, some laws, some rules, but it's going to tell you further how to do your job. And then there's actually technically something under that, which is guidance, which tells you how to perform the job of the policy.

Really what we're talking about here is taking our rules and deciding along with DFM, who's telling us to do this. Which of these we propose to move to code? Which of these we propose keeping in rule? And which of these we feel like are perhaps better served being in policy and being taken out of the Idaho legislative code or rule?

So that's the conversation. We're not at this time proposing any new policies, rules, codes, or anything like that. We're just really taking these rules. We're either moving them up to code, keeping them in rule, or moving them down into policy, at which point we would be changing policy and be going through the steps to have that happen. So that is the reason for involving everyone here and specifically the board members.

The IDAPA 15 Office of the Governor, Idaho Commission for the Blind and Visually Impaired 15-02-01 rules governing the rehabilitation programs. Two chapters of rules at the commission here. BEP has separate rules. It says rehabilitation programs, but it's really VR program, independent living program, and prevention of blindness and sight restoration program.

So the first couple sections are legal authority, scope, incorporation by reference, which references our CFRs and some of those things. Kept that in rule. Our scope really just defines what this rule is and who it applies to. And so, we thought that was important to keep. And then legal authority is just referencing the Idaho Code, which gives us the legal authority to create rules for our agency. And then incorporation by reference is just anything that we decided to keep out of rules, but wanted to specifically talk about that they're important, really just referencing our

CFRs that govern our programs, when applicable.

And then the first section here is definitions.. It's called 010 definitions. And we decided to split these. Some of them are proposing to move to policy, some were are proposing to move to code. But first thing was blind or visually impaired. We felt like that definition wasn't going to change, and we could move that to code. The other things that we or other definitions that we decided to move to code are functionally blind. That really is an important definition, and we felt like that was going to be fairly stable through the years. And then immediate danger of blindness, the status of an individual or client who is in danger of becoming blind or visually impaired within two years. And we felt like that was code worthy. And then the rest of the definitions we want to keep in rule. Those include commission, independent living services, and most significant disability, because those types of things can change. They're fairly consistent and constant, but you never know. Prevention of blindness or sight restoration services, and then VR services. Most significant disability we wanted to keep in rule, other than comparable benefits and services, which we felt like we could define in policy.

We tried to stay consistent through this where anything that was like eligibility based or really defining who can receive this as far as Idaho citizens or individuals that can receive the program, we would put in code. Anything that's defining our individual programs we wanted to keep in rule. And then things like comparable benefits, we just felt like that could be a policy. So, and you'll see that theme throughout this entire thing.

Information referral and application for VR services. This really goes into any person or entity that refers to an individual commission for services. The subsections of that are contact by the commission, which says we're going to contact people within three days of a referral, the right to apply, availability of residence requirements, that they must be legally permitted to work in the labor market prior to eligibility determination. They have to have residency requirements, work status documents that establish work consistent with Form I-9 immigration and neutralization services.

We did not feel like that was going to change. People have to be ready to work.

They have to be eligible to work. I can't see a world where that's not the case in VR. That's what we do, vocational rehabilitation. We send people to work. They have to be legally able to work in the United States. It just felt like that was, and then things like right to apply. Everyone has the right to apply and become eligible for services. Just didn't see any reason to not put it in code.

But we also didn't want to take it out because it's important. Same thing with eligibility as we're going down to 101 eligibility. The client's blindness or visual impairment constitutes a result of substantial impediment. There's a reasonable expectation that VR services will benefit the client. It still gives us some flexibility within policy to define functional blindness or define some of these things that we want to define for our program and what makes sense, but if you're blind or visually impaired, you have the impediment to employment, that's not going to change. So, we felt like code was appropriate there. And then comparable benefits, consistent with our definition, we're proposing to move that to policy. This is referenced in a CFR, so we're protected in that way. If one of our clients ever said, I don't want to get comparable benefits and I don't have to, well, no, you do. There's a code of federal regulations about it. So, putting it in policy really just made sense so that the employees of the agency know how to follow that and they don't have to go looking for CFRs, but not something that has to be redundant in Idaho rule.

And then the things we want to keep in rule under subsection or subchapter A in VR services are purchasing requirements and purchasing standards. And when we go through these, this is like services and purchases will follow federal, state, and agency guidelines, require authorization prior to initiation of purchase service, and authorization will be issued before or on the begin date. Again, it talks about authorizations, and that to me is process. That's how we're choosing to do things. We go through our case management system, and then we create authorizations, and then we send it out. I'm not saying that's going to change. That's why we want it in rule. But putting that in law really sets that in stone in a way that perhaps we don't want to. I don't see how else you would do it. I think most VR agencies use authorizations, but it is a process that we felt like would be better served in rule. And then purchasing standards really talks about things like establish a fee and

schedule for client services, and levels of purchasing authority for counselors. Exceptions to upper limits in the fee schedule need to be approved by rehabilitation services chief. Again, getting more into process, something really important that we want in rule, not proposing moving into policy, but didn't feel like it rose to the level of code.

And then the last two things in this subchapter we proposed moving to code:

One is client appeals. This one we may revise a little bit here because it's very process oriented. It talks about the rehabilitation services chief will inform the client in writing the time, place, and date of the informal dispute resolution. So, it really goes through steps of the appeal process.

In a perfect world, I think we would want this to say something like, clients have the right to appeal. And then in rule, maybe keep our process.

I'm hoping these are some of the things we can really further refine with DFM and LSO. But for the most part, we thought client appeals is not really likely to change. So, we're just going to keep that and roll that over into code. And then order of selection is the last thing. We're not on order selection right now, but we might be in the future.

Britt –

If the feds change the CFRs -

What does that do to things that are in code? If it's if it's in code as defined by the federal code and they change the federal code, what do we have to do?

Caleb - If we feel like it's necessary, we could go through the steps to then change it in Idaho code, citing the CFRs and saying, well, this builds on this CFR, this one got changed, so we need to reference this. And again, Idaho code can be changed. It is an act of Congress, but it's possible. And so that would be, I think, good reason to change it if something significantly changed in the CFRs. But the other thing I've heard is that whatever is least restrictive.

Subchapter B is the Independent Living Program. Number one is services. Independent living services are offered on a statewide basis to eligible individuals. It's really just defining what it is. We're keeping that in rule. Application, this was more process. And so, we said this could go to policy. Health services, very policy type of stuff that we thought would be better served in policy, not rule, and be able to change it pretty frequently, and it's not technically required anywhere, so code eligibility, we felt like to be consistent with our eligibility.

In subchapter A, we would move this to code. This is defining blind or visually impaired. It substantially limits the client's ability to perform in the family or community and will improve the result of services, will improve the ability to function, continue functioning, and move forward and functioning independently. And then residency, client is a resident of the state of Idaho. We felt like all that was pretty consistent and could be moved over into code.

And then independent living plan. Again, this talks about when you're determined eligible, you're going to meet with a rehab teacher and then you're going to sign an independent living plan and define what services are going to be. And then the plan contents really just felt like that was more policy and could be updated pretty frequently.

Purchasing standards and requirements. This is what I was talking about where, in my opinion, this is really where we should, as an agency, try to keep this in rule. It has the weight of law being in rule, but it doesn't, but we can change it if we need to. This is where we talk about the commission will expend no more than \$500 per client. We set that as an agency, right? And so, putting that in Idaho code would be a little more effective. Does our grant change where we need to make it less? Does it change where we can make it more? Anything cost-oriented like that, we really felt like we should keep out of code and try to keep in rule.

But we also want it to be in rule because just putting it in policy doesn't have the weight that I think that rule intends to have. And then I think we get into subchapter C, Prevention. Subchapter C is the Prevention of Blindness and Sight Restoration Program. This is the final subchapter of the three subchapters in our rule.

The first one is provision of services on a statewide basis. It defines site restoration, talks about who can apply. Individuals must meet with a VR assistant and a commission to complete and sign an application.

Again, that is more policy type stuff. They're going to sign this and meet with so-and-so. But since it's not broken out in our rules currently, and they're certainly not going to like us to add any rules, we really felt like we would just keep that in rule. It defines what site restoration is. It defines who can apply, those in immediate danger of blindness and subject to eligibility and available funding. Because we combined all of that, we felt like keeping it in rule rather than the other two options was the way to go. Consistent with above, we're moving eligibility to code.

This, again, is just defining who's eligible for these services. It does talk about financial need, which we could keep that in rule, but we wanted to be consistent with eligibility being in code all the way across. And we're always going to have that financial need. That's why we're getting this grant. That's why we provide the services. So, we felt like code would be still appropriate there. And then residency requirements. If a client is not a United States citizen, client must provide proof of their legal presence as a registered alien in the US. Residents in the state of Idaho for a minimum of six months, and the presence in the state of Idaho at the time of provision of prevention of blindness. These are state funds that we get for sight restoration. So didn't feel like that was going to change where we were going to serve people outside of Idaho in this program. We felt like code was appropriate. Payment for necessary expenses. That's talking about in the event of available funds, prevention of blindness are exhausted prior to the end of any single state fiscal year. Eligible clients are placed on a waiting list until such time funding is available and then resume prevention of blindness. And then upper limits. The commission will pay no more than \$5,000 per eligible client for necessary expenses - really felt like those should stay in rule. We also think we should keep exceptions. Any exception to this individual lifetime can only be granted upon approval of the independent living coordinator. Again, that's the way our program works right now. We don't see it changing anytime soon. We want that weight, but we didn't feel like we should move that to code or move it down to policy.

And then the final thing is comparable benefits and services. Eligible clients must apply for and secure any comparable benefits. Apply towards the payment and necessary expenses incurred for site restoration. Felt like that could be moved to policy, which is really just being consistent with the above recommendations. So, with 5 minutes left, I'll turn it over to the board for anything you guys want to discuss or any questions you have for us. This is the proposal that we sent in.

Approve proposal – Britt Moved, BJ Seconded