



STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL  
LAWRENCE G. WASDEN

March 15, 2013

*Via Electronic and Statehouse Mail*

Tom Luna  
Superintendent of Public Instruction  
STATE DEPARTMENT OF EDUCATION  
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RE: Completion of Mathematical Thinking for Instruction (MTI) Course

Dear Superintendent Luna:

This letter is in response to your request of March 7, 2013, for a written legal opinion from this office on the following questions:

*For individuals who completed the MTI course prior to November 21, 2012, will the completion of the MTI course count for movement on the state salary grid moving forward even if the individual did not purchase the credits [obtain transcribed credit]?*

*For individuals who completed the MTI course after November 21, 2012, do they have to purchase the credits [obtain transcribed credit] in order for the completion of the MTI course to count for movement on the state salary grid?*

**A. Background**

The education factor for purposes of the State salary grid is described in Idaho Code § 33-1004A. During the 2011 Legislative session, S. 1184 amended Idaho Code §

33-1004A to create an exception to the transcribed credit requirement, which in relevant part provided:

In determining the education factor, only credits earned after initial certification, based upon a transcript on file with the teacher certification office of the state department of education, earned at an institution of higher education accredited by the state board of education or a regional accrediting association, shall be allowed. *Provided however, that successful completion of a state-approved mathematical thinking for instruction course shall be counted as transcribed credit.*

Idaho Code § 33-1004A; 2011 S. 1184 (emphasis added)<sup>1</sup>. However, during the 2012 general election S. 1184 was repealed by Proposition 3, which essentially revived the 2010 version of Idaho Code § 33-1004A.<sup>2</sup> Therefore, on November 21, 2012, the MTI course exception to the transcribed credit requirement was removed from Idaho law.

#### **B. Completion of MTI course prior to November 21, 2012**

The repeal of S. 1184 applies prospectively, and not retroactively.<sup>3</sup> Therefore, prior to November 21, 2012, the controlling law included the “successful completion” of the MTI course exception to the transcribed credit requirement. See Idaho Code § 33-1004A; S. 1184. Since the law did not require transcribed credit for the MTI course, the successful completion of the MTI course by instructional or administrative staff prior to November 21, 2012, should count towards the education factor of the State salary grid regardless of whether transcribed credit was received.

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<sup>1</sup> The emphasized language represents the exception added by 2011 S. 1184.

<sup>2</sup> The referendum results became effective upon the issuance of the Governor’s proclamations on November 21, 2012.

<sup>3</sup> There was no language in Proposition 3 expressing an intent that the repeal of S. 1184 should be applied retroactively. See Idaho Code § 73-101 (“No part of these compiled laws is retroactive, unless expressly so declared”); see also *Woodland Furniture, LLC v. Larsen*, 142 Idaho 140, 145 (2005) (“unless a contrary intention is clearly indicated, a new statute will not be given retrospective effect.”). The U.S. Supreme Court has also long held that “[w]ords in a statute ought not to have a retrospective operation, unless they are so clear, strong, and imperative” that a retroactive application is required. *United States v. Heth*, 7 U.S. 399, 413 (1806) (Paterson, J.) (the Court “refused to apply a federal statute reducing the commissions of customs collectors to commissions commenced before the statute’s enactment because the statute lacked ‘clear, strong, and imperative’ language requiring retroactive application”).

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**C. Completion of MTI course after November 21, 2012**

As stated, the repeal of S. 1184 applies prospectively. Therefore, the controlling law after November 21, 2012, does not include any exception to the transcribed credit requirement. Consequently, any instructional or administrative staff that successfully complete the MTI course after November 21, 2012, must obtain transcribed credit in order for the MTI course to count towards the education factor of the State salary grid.

I hope that you find this analysis helpful.

Sincerely,

A handwritten signature in cursive script, appearing to read "Andrew J. Snook".

ANDREW J. SNOOK  
Deputy Attorney General

cc: Luci Willits, SDE Chief of Staff (via email)