

## **SPECIAL CONSIDERATION OF CERTIFICATION AND LICENSING REQUIREMENTS**

The Idaho Real Estate Commission is authorized, upon request for special consideration by an applicant, to waive or modify any requirement established by statute for the certification of course providers, instructors, courses, and any prerequisite requirement for obtaining a broker or sales associate real estate license.

- A. DOPL Education Staff and the Education Council are authorized by the Commission to consider and determine the following matters relating to education requirements for licensure and certification.
1. Certification of course providers ([54-2026](#))
  2. Certification of instructors ([54-2033](#) & [54-2034](#))
  3. Certification of courses and course content ([54-2036](#))
  4. Waivers or modifications to prelicense education requirements ([54-2012\(1\)\(h\)](#) and [54-2022\(2\)](#))
  5. Determination of equivalency with Idaho requirements of prelicense and continuing education courses ([54-2022\(6\)](#))
  6. Extensions of time for acceptance of exam results or prelicense coursework ([54-2014\(1\)](#) and [54-2022\(2\)](#))

DOPL Staff is specifically authorized to certify course providers, instructors, and courses, and to determine equivalency of CE courses with Idaho requirements.

If an applicant requests an extension of time for acceptance of courses or exam results, special consideration of an education requirement, or if the applicant does not agree with DOPL Staff's determination of a matter, or if DOPL Staff in his/her discretion deems it appropriate or advisable, then the applicant's request will be placed on the agenda of the next regularly scheduled Education Council meeting for consideration and determination by the Council. Applicants will be advised in writing within ten (10) business days of the Council's decision.

If an applicant does not agree with the Education Council's decision, then the applicant may request to have the matter reviewed by the Commissioners by timely filing a written request for Commissioner Review. Such request must be received at the Commission office within fifteen (15) days from the date of the Education Council's written notification to the applicant. A request for Commissioner Review of an Education Council decision will be treated in all respects as a request for special consideration before the Commissioners. Unless a written request is timely filed, the decision of the Education Council will be deemed the final agency action.

- B. It is the policy of the Commissioners that DOPL Staff shall have the authority to determine the following applicant requests:
1. Waivers of the national exam ([54-2014](#) and [54-2015](#))

2. Any Disclosure Statement for Inquiry on Impact of Criminal Conviction or felony exemption review request for applicants with a single conviction greater than 15 years ago, if it is for a:
  - Controlled substance violation with no aggravating factors such as significant quantity, distribution, or significant history of repeat offenses;
  - Felony DUI with no aggravating factors such as significant history of repeat offenses;
  - Petit Theft; or,
  - Property crime without aggravating circumstances such as a significant history of repeat offenses.

Black's law defines an aggravating factor or circumstance as "Any factor or circumstance which increases the enormity of a crime or the injury of a wrong."

- C. Decisions for applicants with multiple convictions greater than 15 years ago, a single conviction between 5 and 15 years ago, a conviction for a reason not listed above will always be heard by the full Commission at the next regularly scheduled Commission meeting.
- D. All requests for felony or revocation exemption, waiver of high school graduation/GED, waiver of experience requirements, or waiver or modification of any other requirements not specifically enumerated above will be presented directly to the Commissioners to be heard and decided as requests for special consideration.
- E. All special considerations, waivers, and other modifications of licensing requirements, whether determined by DOPL Staff, the Education Council, or Commissioners, are valid for six (6) months from the date of the Commission's written notification to the applicant, unless specifically stated otherwise in the written notification.

The Executive Officer shall have delegated authority to review and approve these requests. The default if the applicant's history is questionable will always be to defer to the next regularly scheduled Commission meeting for full Commission consideration.

DOPL Staff will provide written notification of decisions within ten (10) business days.

If an applicant does not agree with DOPL Staff's decision, the applicant may request to have the matter reviewed by the Commission members by timely filing a written request for Commissioner review at a regularly scheduled meeting. Such request must be received at the Commission office within fifteen (15) days from the date of DOPL Staff's written notification to the applicant. A request for Commissioner review of a DOPL Staff determination will be treated in all respects as a request for special consideration before the Commissioners.

## **PROCEDURE FOR ACCEPTING AND PROCESSING REQUESTS FOR SPECIAL CONSIDERATION**

License applicants and applicants for instructor and provider certification are entitled to request special consideration to waive or modify licensing or certification requirements. The purpose of this policy is to set forth the procedures and minimum documentation required from an applicant to submit a request for special consideration to the Education Council or Commissioners.

All applicants who want to request special consideration must submit a written request detailing the reason and **“good cause”** for the request, including all appropriate supporting documentation, to the department indicated before the request can be placed on a Commission or Council agenda packet for the next regularly scheduled meeting.

The packet the Commission or Council receives will consist of the request letter and documents submitted by the applicant, a copy of the applicant’s licensing record, and documentation of all communication between the Commission and the applicant.

### ***I. BROKER AND SALES ASSOCIATE – EDUCATION or EXPERIENCE WAIVERS***

Requests and documentation must be received no later than **three weeks** prior to the regularly scheduled meeting.

Per Idaho Code 54-2012(1), the Commission may waive or modify a minimum licensing requirement for good cause and upon special consideration.

A. The following requests are heard by the **Education Council**.

#### **1. Waiver, Modification, or Extension of Exam Scores**

Standard: Idaho Code 54-2012(1) (“good cause”)

Recommended Documents to be Submitted:

- a. Documentation to support the good cause reason for the waiver, modification, or extension

#### **2. Waiver, Modification, or Extension of Prelicense Courses**

Standard: Idaho Code 54-2012(1) (“good cause”) and 54-2022(2) (based on the applicant’s experience or additional education)

Recommended Documents to be Submitted:

- a. Sufficient proof of having completed the education (college transcripts, course completion certificates, certified education histories, etc.)
- b. Proof of experience (list of references, verification letters from previous employers, copies of transactional documents, recommendations from former clients, newspaper, or newsletter articles, etc.)
- c. Documentation to support the good cause reason for the extension

B. A review of an unfavorable Council decision is heard by the **Commissioners**, in accordance with the *Special Consideration of Certification and Licensing Requirements Policy*.

C. The following requests are heard by the **Commissioners** to determine good cause and suitability for licensure.

1. **High School Graduation/GED Waiver** (for all applicants)

Standard: Idaho Code 54-2012(1) (“good cause”)

Recommended Documents to be Submitted:

- a. Documentation to support the good cause reason for the request

2. **Experience Waivers** (for broker applicants)

Standard: Idaho Code 54-2012(1) (“good cause”) and 54-2012(2)(a)(iii) (based on applicant’s educational background or experience in related or affiliated business activities)

Recommended Documents to be Submitted:

- a. Documentation of education (college transcripts, course completion certificates, certified education histories, etc.)
- b. Signed experience verification form(s) if the applicant is or has been licensed in any jurisdiction
- c. Other documentation of experience (reference letters, transactional documents, professional certifications, certified license histories, etc.)

3. **Extension of Fingerprint Results**

Standard: No waiver or extension of fingerprint results will be granted.

4. **Terminated License**

Standard: A license that has terminated cannot be “reinstated.” Instead, an applicant must apply for a new license. A request from a terminated licensee to “reinstated” the license must be treated as a waiver request for all prelicense and experience requirements. Appropriate documentation must be provided for each item for which a waiver is requested.

## ***II. BROKER AND SALES ASSOCIATE - FELONY AND REVOCATION EXEMPTION REQUESTS***

All exemption and revocation requests and documentation must be received no later than **three weeks** prior to the regularly scheduled meeting with all materials to be included in the agenda packets.

A. The following requests are heard by the **Commissioners** to determine good cause and suitability for licensure except as delineated in Special Consideration Policy (B).

**1. Felony Exemption** (had been convicted of a felony in a state or federal court or convicted by military general court-martial; whether or not a judgment or sentence has been imposed, withheld, or suspended)

Standard: Idaho Code 54-2012(1) (“good cause”) and 54-2012(1)(g)(i) and (ii) (“suitability for licensure” by considering these elements)

Recommended Documents to be Submitted:

- a. Judgment and sentencing documents (plea agreement, court decision, etc.)
- b. Documents evidencing release from probation or parole
- c. Any information pertaining to the circumstances surrounding the crime that would help determine the risk of repetition
- d. Papers documenting participation in treatment, payment of restitution or other factors of current rehabilitation
- e. Resume or employment history documenting activities since the time of the felony
- f. Reference letters

Consideration: During the review, the Commission shall consider the following factors or evidence:

- a. The severity or nature of the felony;
- b. The period of time that has passed since the felony under review;
- c. The number or pattern of felonies or other similar incidents;
- d. The circumstances surrounding the crime that would help determine the risk of repetition;
- e. The relationship of the crime to the licensed practice of real estate; and
- f. The applicant’s activities since the crime under review, such as employment, education, participation in treatment, payment of restitution or any other factors that may be evidence of current rehabilitation.

**The applicant has the burden of establishing current suitability for licensure.**

**Alternatively, an applicant may submit a Disclosure Statement of Impact on Criminal Conviction form to have their request considered prior to completion of the licensure requirements. These forms are reviewed in the same manner as felony convictions, as described in the Commission’s *Special Consideration of Certification and Licensing Requirements Policy*.**

**2. Revocation Exemption** (had a real estate or any professional license revoked for fraud, misrepresentation, or dishonest or dishonorable dealing)

Standard: Idaho Code 54-2012(1) (“good cause”) and 54-2012(1)(e)(i) and (ii) (“suitability for licensure” by considering these elements)

Recommended Documents to be Submitted:

- a. Final order or judgment
- b. Reference letters
- c. Resume or employment history documenting activities since the time of the revocation

- d. Papers documenting participation in treatment, payment of restitution or other factors of current rehabilitation
- e. The circumstances surrounding the disciplinary violation that would help determine the risk of repetition

Consideration: During the review, the Commission shall consider the following factors and evidence:

- a. The severity or nature of the disciplinary violation for which the applicant's license was revoked;
- b. The period of time that has passed since the disciplinary violation occurred;
- c. The existence, number, and pattern of any other misconduct for which the applicant has been disciplined;
- d. The circumstances surrounding the disciplinary violation that would help the Commission determine the risk of repetition;
- e. The relationship of the disciplinary violation to the licensed practice of real estate; and
- f. The applicant's activities since the disciplinary violation under review, such as employment, education, participation in treatment, payment of restitution or any other factors that may be evidence of current rehabilitation.

**The applicant has the burden of establishing current suitability for licensure.**

**NOTE: No revocation exemption will be considered for a period of five (5) years from the date the license was revoked.**

### ***III. PROVIDER AND INSTRUCTOR CERTIFICATION APPLICANTS***

Requests and documentation must be received no later than **three weeks** prior to the regularly scheduled meeting with all materials to be included in the agenda packets.

Per Idaho Code 54-2026(2)(c), the Commission may make such additional investigation and inquiry relative to an applicant for provider certification as it deems advisable. If good cause exists, the Commission may deny or accept the application.

Per Idaho Code 54-2034, the Commission may make such additional investigation and inquiry relative to an applicant for instructor certification as it deems advisable. If good cause exists, the Commission may deny or accept the application. Based on an applicant's educational background, experience in related activities, or a review of the applicant's evaluations as an assistant teacher, the Commission may reduce or assign additional requirements for instructor certification.

A. The following requests are heard by the **Education Council**.

- 1. Waiver of the active real estate-related experience requirement, which includes the requirement to be a licensed broker, appraiser, or attorney**

Standard: Idaho Code 54-2034 (based on educational background or related experience)

Recommended Documents to be Submitted:

- a. **Knowledge of the course topics to be taught (demonstrated by undergraduate or graduate level course work or relevant experience on equivalent topics)**
  - b. Sufficient proof of having completed the required education (college transcripts, course completion certificates, certified education histories, etc.)
  - c. Documentation of additional education completed within the past 5 years (continuing education certificates, other professional transcripts or certificates)
  - d. Proof of experience (list of references, verification letters from previous employers, copies of transactional documents, recommendations from former clients, newspaper, or newsletter articles, and so forth)
  - e. License history or verification from the applicant's professional licensing jurisdiction (if applicable)
  - f. Experience teaching the approved subject matter a minimum of 3 times per year in the past 2 years (schedule of courses previously taught, with emphasis given on hours specific to the content related to this waiver request)
  - g. Any degrees, designations, or certifications that have been obtained (transcript showing award date, certificate of completion, or dated letter of award)
  - h. Any professional instructor designations held (Distinguished Real Estate Instructor (DREI) certification through REEA, GRI Instructor certification for Idaho or a similar state, and the like)
  - i. Listing of total transactions completed, with corresponding dollar amounts, for each of the past 5 years (MLS records, listing agreements, purchase and sale agreements)
  - j. Other documentation that provides good cause for why the request should be granted
- B. A review of an unfavorable Council decision is heard by the **Commissioners**, in accordance with the *Special Consideration of Certification and Licensing Requirements Policy*.
- C. The following requests are heard by the **Commissioners** to determine good cause and suitability for certification.
1. **Felony Exemption** (had been convicted of a felony in a state or federal court or convicted by military general court-martial; whether or not a judgment or sentence has been imposed, withheld, or suspended)

Standard: Idaho Code 54-2012(1) ("good cause") and 54-2012(1)(g)(i) and (ii) ("suitability for licensure" by considering these elements)

Recommended Documents to be Submitted:

- a. Judgment and sentencing documents (plea agreement, court decision, etc.)
- b. Documents evidencing release from probation or parole
- c. Any information pertaining to the circumstances surrounding the crime that would help determine the risk of repetition
- d. Papers documenting participation in treatment, payment of restitution or other factors of current rehabilitation
- e. Resume or employment history documenting activities since the time of the felony
- f. Reference letters

**Consideration:** During the review, the Commission shall consider the following factors or evidence:

- a. The severity or nature of the felony;
- b. The period of time that has passed since the felony under review;
- c. The number or pattern of felonies or other similar incidents;
- d. The circumstances surrounding the crime that would help determine the risk of repetition;
- e. The relationship of the crime to the licensed practice of real estate; and
- f. The applicant's activities since the crime under review, such as employment, education, participation in treatment, payment of restitution or any other factors that may be evidence of current rehabilitation.

**The applicant has the burden of establishing current suitability for licensure.**

**NOTE:** Instructor and provider applicants are required to attest they have not had a real estate or other professional or occupational license suspended or revoked for disciplinary reasons or been refused a license renewal. They must not have been convicted, fined, placed on probation, received a withheld judgment, or been confined on account of any felony or a misdemeanor involving fraud, misrepresentation, or dishonest or dishonorable dealing. However, there is no 5-year time limitation on misdemeanors, suspensions, or revocations for certification applicants. (Idaho Code 54-2026(2)(b) and 54-2033(2)(a))

**Alternatively, an applicant may submit a Disclosure Statement of Impact on Criminal Conviction form to have their request considered prior to completion of the licensure requirements. These forms are reviewed in the same manner as felony convictions, as described in the Commission's *Special Consideration of Certification and Licensing Requirements Policy*.**