

## **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, pre-license instructors, and courses/course content, and any prerequisite requirement for obtaining a broker or sales person real estate license. The Education Council is established to act as an advisory group to the Commission and to perform functions as set forth in the license law and in the Council's bylaws.

A. It is the Commissioners' opinion that the Education Director and/or Education Council are in the best position to consider and determine matters relating to the following education requirements for licensure and certification. Therefore, the following procedures are adopted for use by the Commission and the corresponding authority is approved for delegation to the Education Council in its Bylaws.

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))

The Education Director is specifically authorized to certify course providers, instructors, and courses, and determine equivalency of CE courses with Idaho requirements.

If an applicant requests an extension of time for acceptance of courses or exam results or special consideration of an education requirement, or if the applicant does not agree with the Education Director's determination of a matter set forth in paragraph (i) above, or if the Education Director 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 its 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 Commission members 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 the Executive Director shall have the authority to determine the following applicant requests:

1. Grant of a provisional license/extension of time to complete continuing education requirements (54-2023(8))
2. Waivers of the national exam (54-2014 and 54-2015)

Staff will provide written notification of denial of requests for the above waivers or grant of provisional license within ten (10) business days. If an applicant does not agree with the Staff decision to deny a request, the applicant may request to have the matter reviewed by the Commission members 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 Staff's written notification to the applicant. A request for Commissioner review of a Staff determination will be treated in all respects as a request for special consideration before the Commissioners.

**C. All requests for felony or revocation exemption, waiver of high school graduation/GED or 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.**

D. All special considerations, waivers and other modifications of licensing requirements, whether determined by 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.

## **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 minimum documentation required from an applicant in order for staff 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 his/her request can be placed on a Commission or Council agenda. **All exemption reviews must be received no later than noon, two weeks prior to the scheduled meeting with all materials to be included in the agenda packets. All other requests must be received no later than noon, one week prior to the scheduled meeting with all materials to be included in the agenda packets.**

**\*\*\*NOTE: Staff should always print out the applicant’s records from the licensing database (if available), including communication logs, and include those records in the Council or Commission meeting packet with every request.**

**\*\*\*NOTE: An applicant who wishes to request special consideration must have completed all other requirements for licensure/certification prior to submission of the request to either the Education Council or Commissioners.**

### ***I. BROKER AND SALES ASSOCIATE LICENSE APPLICATIONS***

**A. Licensing Dept.** Idaho Code 54-2012(1) – The Commission may waive or modify a minimum licensing requirement for good cause and upon special consideration.

The following requests go directly to the **Commissioners** to determine good cause and suitability for licensure.

1. Felony Exemption  
Standard: Idaho Code 54-2012(1) (“good cause”) **and** 54-2012(1)(g)(i) and (ii) (“suitability for licensure” by considering these elements)  
Documents to be Submitted:
  - a. Judgment and sentencing documents (plea agreement, court decision, etc.)
  - b. Documents evidencing release from probation or parole
  - c. Review memo to Commissioners (prepared by IREC staff)
  - d. Reference letters
  - e. Resume or employment history documenting activities since the time of the felony

During the review, the commission shall consider the following factors or evidence:

1. The severity or nature of the felony;
2. The period of time that has passed since the felony under review;

3. The number or pattern of felonies or other similar incidents;
4. The circumstances surrounding the crime that would help determine the risk of repetition;
5. The relationship of the crime to the licensed practice of real estate; and
6. 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: No felony exemption will be considered if the requesting party has not yet completed any term of probation, sentence or confinement or period of parole or supervised release, and a period of 5-years from the date the person was convicted or completed any term of probation, sentence or confinement or period of parole, whichever is later, has passed.

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)

Documents to be Submitted:

- a. Final order or judgment
- b. Review memo to Commissioners (prepared by IREC staff)
- c. Reference letters
- d. Resume or employment history documenting activities since the time of the revocation

During the review, the commission shall consider the following factors and evidence:

1. The severity or nature of the disciplinary violation for which the applicant's license was revoked;
2. The period of time that has passed since the disciplinary violation occurred;
3. The existence, number and pattern of any other misconduct for which the applicant has been disciplined;
4. The circumstances surrounding the disciplinary violation that would help the commission determine the risk of repetition;
5. The relationship of the disciplinary violation to the licensed practice of real estate; and
6. 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.

3. High School Graduation/GED Waiver (for all applicants)  
Standard: Idaho Code 54-2012(1) (“good cause”)  
Documents to be submitted:
  - a. Documentation to support the good cause reason for the request
  
4. 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)  
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.)
  
5. Extension of Fingerprint Results  
 No waiver or extension of fingerprint results will be granted.

**B. Education Dept.** Idaho Code 54-2012(1) – The Commission may waive or modify a minimum licensing requirement for good cause and upon special consideration.

The following requests are heard by the **Education Council**. A review of an unfavorable Council decision is heard by the Commissioners, in accordance with the Special Consideration Policy.

1. Waiver, Modification, or Extension of Exam Scores  
Standard: Idaho Code 54-2012(1) (“good cause”)  
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)  
Documents to be submitted:
  - a. Current certified license history from the applicant’s licensing jurisdiction, including all disciplinary actions and the status and standing of the license
  - b. Sufficient proof of having completed the education (college transcripts, course completion certificates, certified education histories, etc.)
  - c. 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)

3. Substitution of Prelicensure Courses from Other Jurisdictions

Standard: Idaho Code 54-2022(6) (based on the applicant’s satisfactory completion of similar real estate courses in any jurisdiction)

Documents to be submitted:

- a. Official transcript from the institution that provided the instruction
- b. Description of the subjects covered in the course, including the number of classroom hours

**C. Terminated License.** 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. INSTRUCTOR AND PROVIDER CERTIFICATION APPLICANTS***

**NOTE:** Provider and instructor 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).) If a provider or instructor applicant requests a waiver of this requirement, the request would go directly to the **Commissioners** in the same manner as a request from an applicant for sales or broker license. See sections I(A)(1), I(A)(2), and I(A)(3) above.

**A. Providers.** 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.

In the unlikely event a certification is denied under this section, the applicant may request an Education Council review of the staff’s decision. A review of an unfavorable Council decision is heard by the **Commissioners**, in accordance with the Special Consideration Policy.

**B. Instructors.** 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.

The following requests are heard by the **Education Council**. A review of an unfavorable Council decision is heard by the Commissioners, in accordance with the Special Consideration Policy.

1. Waiver of the 5 years active real estate-related experience requirement  
Standard: Idaho Code 54-2034 (based on educational background or related experience)  
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, and so forth)
  - c. License history or verification from the applicant's professional licensing jurisdiction (if applicable)
  
2. Waiver of requirement to be licensed broker, appraiser, attorney  
Standard: Idaho Code 54-2034 (based on educational background or related experience)  
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, and so forth)
  - c. License history or verification from the applicant's professional licensing jurisdiction (if applicable)
  
3. Waiver of assistant teaching, course observation, final exam requirements  
Standard: Idaho Code 54-2034 (based on educational background or related experience)  
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, and so forth)
  - c. License history or verification from the applicant's professional licensing jurisdiction (if applicable)