

Dear Senators PATRICK, Souza, Ward-Engelking, and
Representatives HOLTZCLAW, Syme, Chew:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Office of the Governor - Division of Human Resources and Personnel Commission:
IDAPA 15.04.01 - Rules of the Division of Human Resources and Idaho Personnel Commission -
Proposed Rule (Docket No. 15-0401-2201).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 11/18/2022. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/16/2022.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Commerce & Human Resources Committee

FROM: Senior Legislative Drafting Attorney - Matt Drake

DATE: November 01, 2022

SUBJECT: Office of the Governor - Division of Human Resources and Personnel Commission

IDAPA 15.04.01 - Rules of the Division of Human Resources and Idaho Personnel Commission - Proposed Rule (Docket No. 15-0401-2201)

Summary and Stated Reasons for the Rule

The Division of Human Resources and Idaho Personnel Commission submit notice of proposed rule-making at IDAPA 15.04.01. The agency states that the proposed rule is intended to streamline the rules in accordance with the Red Tape Reduction Act. The proposed rule is also intended to modernize the rules and to make them consistent with recent legislative changes. In addition, the rulemaking contains non-substantive edits designed to simplify the language.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was not conducted. The rulemaking is not anticipated to have a fiscal impact.

Statutory Authority

The proposed rulemaking appears to be authorized pursuant to Section 67-5309, Idaho Code.

cc: Office of the Governor - Division of Human Resources and Personnel Commission
Lori Wolff

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Paul Headlee, Deputy Director Kristin Ford, Manager Keith Bybee, Manager April Renfro, Manager Glenn Harris, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

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**IDAPA 15 – OFFICE OF THE GOVERNOR
DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION**

**15.04.01 – RULES OF THE DIVISION OF HUMAN RESOURCES
AND IDAHO PERSONNEL COMMISSION**

DOCKET NO. 15-0401-2201

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-5309, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The agency considered its continued efforts to clarify and streamline rules to align with the Red Tape Reduction Act and HR Modernization. Minor housekeeping edits were included with the intent to make the rules consistent with recent statutory changes, simplify existing language, and reduce or eliminate unnecessary restrictions which have been addressed in statute.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

FISCAL IMPACT: This rulemaking is not anticipated to have any fiscal impact on the state's General fund or any dedicated fund or federal fund because the changes are only verbiage in nature.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted due to the timing and window of opportunity for rulemaking for edits of language.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Michelle Peugh at michelle.peugh@dhr.idaho.gov or (208) 854-3073.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 20th day of September, 2022.

Lori A. Wolff
Administrator
304 North 8th Street
P.O. Box 83720
Boise, Idaho 83720-0066
Lori.Wolff@dhr.idaho.gov
Phone: (208) 334-2263
Fax: (208) 854-3088

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 15-0401-2201
(Only Those Sections With Amendments Are Shown.)

010. DEFINITION.

Each of the terms defined in these rules have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (3-31-22)

01. Administrative Leave. Temporary paid leave from a job assignment where pay and benefits remain intact. (3-31-22)

02. Appeal. Any written request for relief from dismissal, demotion, suspension, or other adverse action filed with the Commission by an employee, appointing authority, or applicant. The meaning of appeal includes application, petition, or protest. (3-31-22)

03. Appellant. An employee, appointing authority, or applicant filing an appeal or a petition for review with the Commission. (3-31-22)

04. Appointment, Limited. The appointment of a person to a classified position where the work is projected to be of limited duration, for which the person has qualified by examination. (3-31-22)

05. Appointment, Permanent. The appointment of a person to a classified position who has been certified by the appointing authority to have successfully completed the required probationary period and whose employment is permanent, subject to removal or discipline only under the provisions of Title 67, Chapter 53, Idaho Code, and the rules of the Division and Idaho Personnel Commission. (3-31-22)

06. Appointment, Probationary. The appointment of a person to a classified position for which the person has qualified by examination but is serving a work trial period as a condition for certification to permanent appointment. (3-31-22)

~~**07. Appointment, Project Exempt.** The appointment of a person to a nonclassified position established under federal grants, which by law restricts employment eligibility to specific individuals or groups on the basis of non-merit selection requirements. (Ref. Section 67-5303(m), Idaho Code) (3-31-22)~~

~~**08. Base Pay.** The rate paid for performing a job, excluding bonuses, shift differentials, overtime or other compensation premiums. (3-31-22)~~

~~**09. Classified Service.** That body of positions in state agencies subject to Title 67, Chapter 53, Idaho Code, as defined therein and excludes temporary, *project exempt*, and nonclassified appointments. (3-31-22)~~

~~**10. Compensation Plan.** The overall system of salary administration for classified service including Sections 67-5309B and 67-5309C, Idaho Code; the classification and compensation schedules, Division and Idaho Personnel Commission rules and policies, and agency policies governing employee pay. (3-31-22)~~

~~**11. Compensation Schedule.** The pay grades established by the Division and associated rates of pay. (Ref. Section 67-5309B, Idaho Code) (3-31-22)~~

~~**12. Consultant.** An independent contractor who provides professional or technical advice, counsel, or service. (Ref. Rule 050) (3-31-22)~~

~~**13. Dismissal.** The separation of an employee from classified service with cause assigned by the appointing authority pursuant to Rule 190. (3-31-22)~~

~~**14. Division.** The Idaho Division of Human Resources. (3-31-22)~~

154. Due Process. As related to Idaho's Personnel System for permanent classified employees, the activities required to address an individual's constitutional right to notice and an opportunity to be heard. (Ref. Section 67-5315, Idaho Code) (3-31-22)

165. Employment History. The information available to the public without the employee's consent in accordance with Section 74-106, Idaho Code, for every agency for which a current or former public official works, including the official reasons for separation from employment but not including accrued leave balances or usage. (3-31-22)

176. Good Cause. The conduct of a reasonable person in the same or similar circumstances. (3-31-22)

187. Hay Method. A methodology for establishing the relative value of jobs and used as a dimension of the pay system. (3-31-22)

198. Hiring List. A hiring list is a subset of a register consisting of the top twenty-five (25) individuals on the register, plus all individuals tied for the twenty-fifth position, certified as eligible for a specific recruitment. Candidates for reinstatement or transfer may be considered and are provided in addition to the top twenty-five (25). (3-31-22)

2019. Incumbent. Any person holding a classified or non-classified position in state service. (3-31-22)

240. Independent Contractor. Any person, firm, or corporation meeting the Internal Revenue Service's test for an independent contractor or a self-employed person. (Ref. Rule 050) (3-31-22)

221. Involuntary Transfer. A significant change in work location, shift and/or organizational unit made as a result of a management decision as opposed to an employee's request or agreement to transfer. (3-31-22)

232. Layoff. An involuntary reduction in hours of work or separation of an incumbent in the classified service either by reduction in force due to shortage of work or funds, or abolishment of positions. (3-31-22)

243. Light or Limited Duty. A general term describing a temporary limited assignment in relation to recovery from injury, illness or other limiting condition as approved by the appointing authority. (3-31-22)

254. Merit Increase. The advancement of an employee's compensation within a pay grade based upon performance in accordance with Section 67-5309B(3) and (4), Idaho Code. (3-31-22)

265. Merit Increase Matrix. A pay distribution tool used to advance employee pay based on performance and market data. (3-31-22)

276. Minimum Qualification Specialty. A minimum qualification required for one (1) or more positions in a classification that is in addition to the other minimum qualifications required for all positions in the classification. (3-31-22)

287. Occasional or Sporadic Work. Work that is voluntarily performed by an employee in a different capacity from the employee's regular work and is infrequent, irregular or occurring in scattered instances. (3-31-22)

298. On-Call Time. Time when an employee is required to ~~carry a pager, cellular phone, or to leave word at home or with the agency where the employee may be reached if needed to work, and the employee can use the time effectively for personal purposes~~ **be available if called upon by their agency during hours that are outside of their normally defined work schedule.** (3-31-22)()

3029. Pay Line Exception. A temporary assignment of pay grade, pursuant to Section 67-5309D, Idaho Code, in excess of the pay grade allocated pursuant to Section 67-5309B, Idaho Code, as approved by the administrator. (3-31-22)

340. Permanent Employee. An employee in the classified service who has successfully completed

entrance probation. Permanent employees remain subject to separation as set forth in these rules and Section 67-5309(n), Idaho Code. (3-31-22)

321. Promotion. The advancement through the competitive process of an employee with permanent status from a position which he occupies in one (1) classification to a position in another classification having a higher paygrade. (3-31-22)

322. Reduction in Pay. A reduction of an employee's salary from one (1) pay rate to a lower rate within the pay grade to which the employee's classification is allocated. (3-31-22)

343. Register. A list of names of persons or the name of one (1) person who has been determined to be eligible for employment in a classification on the basis of examination and merit factors as established by the administrator. ~~An adequate register lists at least five (5) names of eligible candidates currently available for consideration for each vacancy in the classification for which the register was established.~~ (3-31-22)()

344. Resignation. The voluntary quitting or abandonment of state employment, excluding retirement. (3-31-22)

365. Respondent. The party whose interests are adverse to those of the appellant. (3-31-22)

376. Salary Equity Increase. The advancement of an employee's compensation within a pay grade based upon factors such as market demand, compression within the agency or classification, or inequities, and the employee's performance, in accordance with Section 67-5309B(3), Idaho Code. (3-31-22)

387. Suspension. An enforced period of absence, with or without pay, for disciplinary purposes, for felony charges, or pending investigation of charges made against an employee pursuant to Rule 190. (3-31-22)

398. Termination. The separation of an entrance or voluntary probationary employee from classified service for unsatisfactory service during the probationary period without cause assigned by the appointing authority pursuant to Rule 152. (3-31-22)

4039. Transfer. A change of work location of an employee in which the employee changes from one (1) position to another in the same classification or to another classification in the same pay grade. (3-31-22)

410. Underfill. Administrator-approved appointment to a position established at a higher classification while being compensated at a lower pay grade during completion of a training plan. (3-31-22)

421. USERRA. Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. Sections 4301 through 4333. Prohibits employment discrimination against persons because of their service in the Armed Forces Reserve, the National Guard, or other uniformed services. (3-31-22)

432. Workweek. A period of seven (7) consecutive days beginning 12:01 a.m. Sunday. (Ref. Rule 073) (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

072. OPERATION OF COMPENSATION PLAN.

01. Authorized Pay Rate. No employee in the state classified service will be paid at a rate less than the minimum nor greater than the maximum rate of the pay grade assigned to the classification. (3-31-22)

02. Starting Salary. The starting salary for a new appointee may be anywhere within the pay grade assigned to the employee's classification and is at the appointing authority's discretion considering available budget, market, and relation to existing staff salaries. (3-31-22)

03. Payline Exceptions. Temporary assignments to a new pay grade may be made by the administrator. Such assignments apply to an entire classification for the purpose of recruitment or retention and will be reviewed annually to determine the need for continuance. (3-31-22)

04. Salary Equity Increases. An appointing authority may, with approval by the administrator, advance an employee's salary within a pay grade based upon factors such as market demand, to address compression within an agency or classification, or inequities. In accordance with Section 67-5309B(3), Idaho Code, the employee's performance must be considered. (3-31-22)

05. Salary After Reappointment from Layoff. Employees appointed by the agency that laid them off (Ref. Rules 101.01 and 146) will be paid in the current pay grade for the classification to which reappointed or at the same payrate the employee received immediately preceding layoff, whichever is greater, but not to exceed the maximum of the current pay grade. (3-31-22)

06. Salary Upon Transfer. (3-31-22)

a. A transfer between agencies (Ref. Rule 125) in the same classification or one of equal pay grade does not require a change in the employee's salary, but a lower or higher rate may be negotiated between the employee and the appointing authority. (3-31-22)

b. If the transfer is to a classification of lower pay grade (demotion), the employee's salary is negotiable between the employee and appointing authority within the lower pay grade. (3-31-22)

07. Salary Upon Reinstatement. Unless related to reemployment after a lay-off, the salary of a reinstated employee (Ref. Rule 124) is negotiable between the employee and appointing authority in the current pay grade for the classification in which the employee has reinstatement privileges. (~~3-31-22~~)()

08. Salary Upon Downward Reassignment. When a classification is reassigned downward the employee's salary will be protected to the maximum within the new pay grade. (3-31-22)

09. Salary Upon Return from Military Duty. An employee who returns to state service from active military duty in accordance with the provisions of Section 65-508, Idaho Code, and USERRA will be paid at the comparable rate in the current pay grade for the classification to which he was assigned prior to leaving for military service. (3-31-22)

073. CALCULATION OF PAY.

01. Standard Calculation of Pay. For other than police, correctional officers, or fire employees, pay is calculated in the following order: (3-31-22)

- a.** Holiday pay; (3-31-22)
- b.** All hours worked on a holiday as overtime; (3-31-22)
- c.** All hours worked over forty (40) in the workweek as overtime, excluding occasional or sporadic work; (3-31-22)
- d.** Vacation, sick and other paid or unpaid leaves; and (3-31-22)
- e.** All remaining hours worked at the employee's regular rate of pay. (3-31-22)

02. Shift Differential. Additional compensation paid to employees (including temporary or part-time employees) who work specific, designated hours. Shift differential is paid in addition to any other compensation. (Ref. Sections 67-5302(20) and 67-5328, Idaho Code; Shift differential may be awarded in amounts up to and including twenty-five percent (25%) of hourly rates, based on local market practice for similar jobs. (Ref. Section 67-5309(u), Idaho Code. (3-31-22)

03. Calculation of Pay for Police, Correctional Officers, and Fire Employees. Police, correctional officers, and fire employees on a twenty-eight (28) day work schedule will be compensated as described in Rules 073.01 and 073.02, except that overtime will be calculated based on one hundred sixty (160) hours in a twenty eight (28) day period instead of forty (40) hours in a workweek. (3-31-22)

04. Holiday Pay Calculation. (3-31-22)

a. Paid time off for holidays is a benefit and must be allocated in a substantially similar manner to all employees in the same classification. (3-31-22)

b. A full-time employee will receive holiday pay in accordance with the number of hours the employee works on a regular workday. If the employee's schedule is so irregular that a regular workday cannot be determined, the employee will receive eight (8) hours of holiday pay. An employee must receive some paid leave, wages or salary for the pay period in which the holiday occurs to receive the holiday benefit. (3-31-22)

c. A part-time employee who has a regular work schedule shall be paid for a holiday in the same ratio as eight (8) hours is to a forty (40) hour work week, which for calculation purposes converts to two tenths (.20) x hours normally worked. (3-31-22)

d. To avoid inequities with regard to the Family Medical Leave Act (FMLA) during holiday weeks, if an employee is recording all hours for the week as Family Medical "Leave Without Pay," no hours will be coded on the holiday. Therefore, the holiday will not be counted toward the twelve (12) weeks of family medical leave. (3-31-22)

e. If a part-time employee's hourly schedule is so irregular that a normal workweek cannot be determined, the holiday benefit is in the same proportion that the hours the employee works during a week in which a holiday occurs relate to forty (40). (3-31-22)

f. Schedules resulting in holiday time off in excess of eight (8) hours may be approved by the appointing authority if included in the agency compensation plan. Appointing authorities may also suspend flex schedules during holiday weeks or otherwise adjust work schedules to ensure internal consistency. (3-31-22)

05. Reduction of Salary. The salary of an employee receiving more than the lowest rate of the pay grade for his classification may be reduced to a lower rate within the pay grade by the appointing authority for disciplinary reasons enumerated in Rule 190. (3-31-22)

06. Salary Administration. Each agency must develop a compensation plan designed to consider recruitment and retention and ensure pay equity within the organization. (Ref. Section 67-5309B, Idaho Code) (3-31-22)

07. Salaries for Temporary Appointments. Except as provided for in these rules, salaries for employees hired under temporary ~~and project exempt~~ appointments will be governed by Section 59-1603, Idaho Code. ~~(3-31-22)~~ ()

074. ASSIGNMENT OF HAY EVALUATION POINTS.

01. Assignment to Pay Grade. Pursuant to Sections 67-5309B and C, Idaho Code, the pay grade to which a classification is assigned shall be determined by the number of Hay evaluation points assigned to each classification. (3-31-22)

02. Guide Charts. The Hay evaluation points assigned to a classification shall be the composite numerical value of points factored from the Hay guide charts. (3-31-22)

03. Factoring Benchmarks. The established factoring benchmarks shall be used in conjunction with the Hay Guide Charts to determine the number of points assigned to a classification. (3-31-22)

04. Factoring Process. Hay evaluation points shall be assigned to a classification ~~through the~~

~~following methods, which may be used separately or in combination with the others:~~ (3-31-22)

~~**a.** Factoring Session. The administrator shall determine the membership of a factoring committee and schedule a factoring session in which the appointing authority or designee may present both oral and written information concerning the classification to be factored. The factoring committee shall assign Hay evaluation points in accordance with Rule 074 and the administrator shall notify the appointing authority in writing of the decision of the factoring committee. The appointing authority may request an issue conference with the factoring committee and present their perspective on the assigned points. The factoring committee may affirm or modify the assigned points. The administrator will provide a letter to the appointing authority stating the outcome of the issue conference.~~ (3-31-22)

~~**05.** Approval. After consultation with the **by review and assignment of the administrator and with notification to the** administrator of the Division of Financial Management ~~for approval~~ regarding potential fiscal impacts, ~~the administrator of the Division has final approval of the Hay evaluation points assigned to each classification.~~ These points are final unless appealed in accordance with Section 67-5316, Idaho Code. (3-31-22)()~~

(BREAK IN CONTINUITY OF SECTIONS)

084. ANNOUNCEMENT OF RECRUITMENT.

01. Distribution of Announcements. The announcement of each open-competitive recruitment will be made through an internet application system and posted to other locations determined necessary by the administrator to develop a register of eligibles. If the open competitive recruitment has been requested by the appointing authority in lieu of a promotional recruitment, it will be his responsibility to post or otherwise distribute the announcement so it can be seen by all employees of that agency prior to its expiration date. (Ref. Rule 169) (3-31-22)()

02. Posting of Promotional Announcements. The announcement for each promotional recruitment will be supplied to the appointing authority of each affected agency. It will be his responsibility to post, electronically communicate, or otherwise distribute such announcement so it can be seen by all employees in the agency prior to the expiration date. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

093. CONDUCT AND RATING OF EXAMINATIONS INCLUDING VETERANS' PREFERENCE POINTS.

01. Designation of Examiners. The examinations will be conducted and rated by persons designated by the administrator. (3-31-22)

02. Scoring of Examinations. Each examination will be rated for final scores on the basis of one hundred (100) point maximum. The Division will use appropriate statistical and professional techniques and procedures in determining passing points and final scores. (3-31-22)

03. Veterans' Preference. (3-31-22)

a. Veterans' and disabled veterans' preference points, when applicable under state law, will be added to the final score achieved in the examinations, notwithstanding the fact that the augmented final score may exceed one hundred (100) points. Five (5) percentage points will be added to the earned rating of any veteran, as defined in Section 65-203, Idaho Code, and the widow or widower of any veteran, as defined in Section 65-203, Idaho Code, as long as the widow or widower remains unmarried. Pursuant to Section 65-504, Idaho Code, ten (10) percentage points will be added to the earned rating of any disabled veteran, as defined in Section 65-502, Idaho Code, or to the unmarried widow or widower of the same, or the spouse of any eligible disabled veteran who cannot qualify for any

public employment because of a service-connected disability. Employment registers will be established in order of final score except that the names of all five (5) and ten (10) percentage point preference eligibles resulting from the merit system will be placed on the register in accordance with their augmented rating. (Ref. Sections 65-506 and 67-5309(f), Idaho Code) (3-31-22)

- b. Veterans' and disabled veterans' preference points must not be used to achieve a passing score. (3-31-22)

04. Failing Score. Failure in any part of the examination may disqualify the applicant in the entire examination and from having his name placed on the register. Final scores will be computed in accordance with weights assigned the individual factors in the total examination. (3-31-22)

~~**05. Waiver of Examination.** Notwithstanding other provisions in these rules, when ten (10) or fewer applications are received from applicants meeting minimum qualifications for a position announcement and there is no existing register, the announced examination may be waived by the administrator. These applicants will be eligible for appointment and their placement on the register will take into account veterans' preference. When using registers developed in this manner, appointing authorities will provide the opportunity for placement interviews for each applicant on the register. (3-31-22)~~

065. Examination Upon Reclassification. An employee occupying a position which is reclassified (Ref. Rule 067.01) may be required at the discretion of the administrator to pass an examination for the classification to which reclassified. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

~~**III. ADEQUATE REGISTERS.**~~

~~A register with at least five (5) eligible candidates is adequate. If no register exists or if there are less than five (5) eligible candidates, appointing authorities may hire an eligible candidate listed on an inadequate register or request specialized recruitment. (3-31-22)~~

~~**1121. -- 118. (RESERVED)**~~

(BREAK IN CONTINUITY OF SECTIONS)

120. LIMITED SERVICE APPOINTMENTS.

01. Designation. Classified positions expected to be of limited duration due to funding or nature of the position or project must be identified and designated in advance of announcement. (3-31-22)

02. Permanent Status and Expedited Layoff. Employees appointed under limited-service appointments have permanent classified status after successful completion of probation. These employees have the same rights and responsibilities as other permanent employees but may be subject to expedited layoff pursuant to Rule 140.01.c. (3-31-22)

03. Limited Service Agreement. Appointing authorities making limited-service appointments must prepare, no later than the date of appointment, a written agreement for signature of both the employee and appointing authority describing the non-career nature of the appointment, potential for layoff, and the duration the employee may expect to work. Renewals and updated agreements are required every two (2) years. A copy of the agreement must be kept ~~by the appointing authority~~ **in the employee's personnel file.** (3-31-22)()

(BREAK IN CONTINUITY OF SECTIONS)

123. ~~PROJECT EXEMPT APPOINTMENTS (NON-CLASSIFIED): (RESERVED)~~

~~Project exempt appointments are non-classified positions and are limited to the length of the project grant or twenty-four (24) months, or four thousand one hundred sixty (4,160) hours of credited state service, whichever is shorter. (Ref. Section 67-5303(m), Idaho Code) (3-31-22)~~

124. REINSTATEMENTS.

01. Eligibility. ~~As determined by the administrator, a~~ **Δ** current or former employee will be eligible for reinstatement to a classification in which he held permanent status, or if deleted its successor, or to another classification of equal or lower pay grade under the following conditions (salary treatment is covered by Rule 072.06). (3-31-22)()

a. Reinstatement is limited to a period equal to the length of the employee's probationary and permanent employment combined. (3-31-22)

b. The current or former employee must have separated from the classification for which reinstatement is desired without prejudice. A former employee must also have separated from state classified service without prejudice. (3-31-22)

c. The current or former employee must meet the current minimum qualifications of the classification to which reinstatement is desired. (3-31-22)

02. Reinstatement Prohibited. Reinstatement of a current or former employee is not permissible as long as there is an agency register (Ref. Rule 101.01) for that classification with names of eligibles who have reemployment preference status. (3-31-22)

03. Examination. ~~The administrator may require a~~ **Δ** current or former employee **may be required** to pass an examination for the classification to which reinstatement is desired. (3-31-22)()

04. Probationary Period. An appointing authority may negotiate for a probationary period as a condition of reinstatement except where prohibited. (Ref. Rules 124.05 and 145.01). (3-31-22)

05. Return from Military Duty. An employee returning from military leave without pay (Ref. Rule 250.04) who is relieved or discharged from military duty under conditions other than dishonorable will be, upon application, reinstated in his former position, or one of comparable classification, without loss of credited state service, status, or pay as prescribed by Sections 46-216, 65-508, and 65-511, Idaho Code, USERRA, or the Military Selective Service Act, Title 38, Chapter 43, U.S. Code. Application for reemployment must be made in accordance with the provisions of USERRA. Salary treatment is covered by Rule 072.09. (3-31-22)

125. TRANSFERS.

01. Authority to Transfer. An appointing authority may transfer an employee at any time from one position to another in the same classification. (3-31-22)

02. Transfer Within Pay Grade. An appointing authority may transfer an employee from a classification in which he holds permanent status to another classification allocated to the same pay grade for which the employee meets the minimum qualifications. (3-31-22)

03. Probationary Period. An appointing authority may negotiate with an employee for a probationary period as a condition for a voluntary transfer. Voluntary probation is not allowed for intra agency transfers. (Ref. Rule 150) (3-31-22)

04. Limitation. Transfers will not be used to abridge an employee's rights in reduction in force prescribed by Rules 140 through 147. (3-31-22)

05. Transfer Between Agencies. An employee is eligible for transfer between agencies in the same

classification in which he holds permanent status or to another classification in the same or lower pay grade for which the employee meets the minimum qualifications. Accrued vacation and sick leave will be transferred in accordance with Rules 230.04 and 240.02. Salary treatment is covered by Rule 072.06. (3-31-22)

06. Restriction. Transfer of an employee between agencies is not permissible as long as there is a agency register with reemployment preference status (Ref. Rule 101.01) for the classification in the agency to which transfer is desired with names of eligibles who are willing to accept reemployment. (3-31-22)

07. Examination. ~~The administrator may require a~~ An employee transferring between classifications may be required to pass an examination for the classification to which transfer is desired. ~~(3-31-22)~~ ()

08. Involuntary Transfer. Notice and an opportunity to be heard must be given to any employee subject to an involuntary transfer. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

129. ACTING APPOINTMENT TO A POSITION.

01. Conditions for Acting Appointment. At the discretion of an appointing authority, a classified employee with permanent status may be appointed to a position in a classification of higher pay grade within his own agency in an acting capacity whenever: (3-31-22)

a. The incumbent of the position in the higher classification is on authorized leave of absence; or (3-31-22)

b. A vacancy exists and there is no agency register with reemployment preference status (Ref. Rule 101.01) with names of eligibles who are willing to accept reemployment, nor adequate agency register for the classification. (3-31-22)

02. Minimum Qualifications. To be eligible for an acting appointment, an employee must meet the minimum qualifications of the class. (3-31-22)

~~**03. Notification.** Appointing authorities must notify the administrator of each acting appointment no later than the effective date of the appointment unless an exception is specifically authorized by the administrator.~~ (3-31-22)

043. Effective Date. The effective date of each acting appointment may be retroactive to the beginning of the pay period during which approval is granted. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

141. CALCULATION OF RETENTION POINTS.

There will be an evaluation of all employees in the classification in the agency or organizational unit affected by the reduction in force based on a retention point system. Retention points are derived from experience as described in performance evaluations, classified credited state service, and veterans' preference as described in Rule 141.03. The appointing authority will determine a process for the impartial assessment of evaluations to assign points as follows:

Exemplary Performance	-	.100 points
Solid Sustained Performance	-	.075 points
Achieves Performance Standards	-	.050 points
Does Not Achieve Performance Standards	-	.0 points

(3-31-22)

01. No Performance Evaluation on File for a Twelve-Month Period. All credited state service for which there is no performance evaluation will receive seventy-five thousandths (.075) points per hour. A supervisor's failure to document performance in a timely manner cannot be used to disadvantage an employee during retention point calculation. (3-31-22)

a. ~~Grace period. Supervisors have thirty (30) days after each two thousand eighty (2,080) hours an employee works to complete the performance evaluation documentation. During that thirty (30) day time frame, Completing annual evaluation.~~ The evaluation may be written to cover the **prior** two thousand eighty (2,080) hours or extended to also cover the time frame up to the date of the evaluation. (3-31-22)()

b. Changes in prior periods not allowed. Once an evaluation has been signed by the supervisor, employee, manager, and other applicable reviewers, the document may not be changed, unless the change is a result of a problem solving dispute resolution. (3-31-22)

02. Calculation of Retention Points Since Last Evaluation. The most recent performance evaluation should be used to pro-rate retention points when calculating credited state service since that evaluation, unless that evaluation occurred more than two thousand eighty (2,080) hours from the date of calculation. In such cases, points are calculated in conformance with Rule 141.01. (3-31-22)

03. Veterans' Preference. Veterans as defined in Title 65, Chapter 2, Idaho Code, will receive preference by the addition of retention points equivalent to three (3) years of service at a level that achieves performance standards. (Ref. Section 65-501, Idaho Code) (3-31-22)

04. Calculation Date Cutoff. No points will be calculated for the sixty (60) days prior to the effective date of the layoff. (3-31-22)

05. Audit of Retention Points. Each employee is entitled to an audit of retention points by an independent auditor designated by the administrator in cases of dispute between the appointing authority and the employee. The request for audit must be filed with the appointing authority within five (5) calendar days of the employee's receipt of layoff notification. The decision of the independent auditor is binding on both parties unless an appeal is filed within thirty-five (35) calendar days from the date of the auditor's notification to the affected parties. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

150. PROBATIONARY PERIODS.

01. Probationary Period Required. Except as provided in Rule 040, every appointment and promotion to a classified position is probationary. (3-31-22)

02. Types of Probationary Periods. The probationary period serves as a working test period to provide the agency an opportunity to evaluate a probationary employee's work performance and suitability for the position. There are three (3) types of probationary periods: (3-31-22)

a. Entrance probation is the probationary service required of an employee at the time of his original appointment or any subsequent appointment to state classified service excluding reinstatement and transfer, the duration of which is one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who must serve two thousand eighty (2,080) hours. (3-31-22)

b. Promotional probation is the probationary service required when an employee is promoted, the duration of which is one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who must serve two thousand eighty (2,080) hours. (3-31-22)

c. Voluntary probation is an agreement between employees and the appointing authority for interagency employment actions such as reinstatement, transfer, or voluntary demotion. A voluntary probation is not to be used for employment actions within the agency. The probationary period is negotiable but may not exceed one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who may serve up to two thousand eighty (2,080) hours. (3-31-22)

03. Extension of Probationary Period. Upon written request demonstrating good cause, the administrator may extend the probationary period of an employee for an additional specified period not to exceed one thousand forty (1,040) hours of credited state service. Extension must occur before an employee has worked one thousand forty (1,040) hours or two thousand eighty (2,080) hours for peace officers. (Ref. Section 67-5309(j), Idaho Code) (3-31-22)

04. Interruption of Probationary Period. The probationary period in any classification must be completed within a single agency uninterrupted by termination (Ref. Rule 152.02) or dismissal (Ref. Rule 190). An employee who separated during the probationary period must begin a new probationary period upon reappointment or promotion. (3-31-22)

05. Temporary Service Credit. At the request of the hiring agency, the administrator will allow temporary service time in a given classification to be used toward fulfilling the entrance probationary requirement in that classification as established in Section 67-5309(j), Idaho Code. The temporary duties must be substantially the same as the regular permanent appointment. (Ref. Section 67-5309(*y), Idaho Code, and Rules 122 and 150.01) (3-31-22)()

06. Acting Service Credit. At the request of the hiring agency, the administrator will allow acting appointment service time in a given classification to be used toward fulfilling the promotional probationary requirement in that classification as established in Section 67-5309(j), Idaho Code. The acting appointment duties must be substantially the same as the regular permanent appointment. (Ref. Section 67-5309(y), Idaho Code, and Rules 129 and 150.01) (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

152. SEPARATION DURING PROBATION.

01. Notification. If a probationary employee does not serve satisfactorily, the appointing authority must provide the employee and the Division a performance evaluation indicating unsatisfactory performance in order to process the failure to complete probation separation within thirty (30) days after the expiration of the probationary period. (Ref. Section 67-5309(j), Idaho Code, and Rule 210.04) (3-31-22)

02. During Entrance and Voluntary Probation. (3-31-22)

a. An employee who does not serve satisfactorily during the entrance or voluntary probation must first be given the opportunity in writing to resign without prejudice; an employee who fails to resign may be terminated without cause assigned and without the right to file for problem-solving or an appeal. (Ref. Section 67-5309(j), Idaho Code, and Rule 210.04) (3-31-22)

b. Notice to the employee of termination for unsatisfactory service must be made *not later than at least* fifteen (15) calendar days prior to the effective date of termination, unless there are extenuating circumstances. (3-31-22)()

153. UNSATISFACTORY PERFORMANCE DURING A PROMOTION PROBATION PERIOD.

01. Disciplinary Action. Regardless of the probation status, when a Rule 190 violation supports demotion, suspension, or dismissal, such action may occur. (3-31-22)

02. ~~Intra-Agency~~ During Promotional Probation. If an employee; on promotional probation; does

not meet performance expectations; ~~he or she shall be returned to a position in the classification which he or she holds permanent status or to another classification in the same pay grade for which the employee meets minimum qualifications. If the employee refuses to accept the position, it is considered a voluntary resignation.~~(3-31-22)()

~~03. Inter-Agency.~~ (3-31-22)

a. The employee may voluntarily demote to a vacant position in any classification he or she has held permanent status in state career service. However, the employee must meet the current minimum requirements for that classification. If more than one (1) option exists for demotion, the employee should be placed in the higher paid position, but the specific assignment is up to the appointing authority. (3-31-22)

b. If no position is available for the voluntary demotion option, the employee may be laid off (Ref. Rules 145 and 147) and may+ (3-31-22)()

~~i. Request their name be placed on a register with reemployment preference rights for the next available vacancy in the classification they would have demoted to in his/her new agency; and/or~~ (3-31-22)

~~ii. Request their name be placed on a register for the classification in the agency where they last held permanent status.~~ (3-31-22)()

c. When reinstatement occurs in the classification they promoted from, ~~in the new agency or the prior agency;~~ the employee's name is removed from reemployment required preference status. (3-31-22)()

(BREAK IN CONTINUITY OF SECTIONS)

200. PROBLEM-SOLVING AND DUE PROCESS PROCEDURES.

01. Overview of Procedures. (3-31-22)

a. The due process procedure deals with the disciplinary matters set forth in Section 67-5315(2), Idaho Code, dismissals, suspensions without pay, and demotions, and with all involuntary transfers. The due process procedure generally requires the employee receive notice and an opportunity to respond before a disciplinary decision or involuntary transfer is made by the agency. Decisions regarding disciplinary dismissals, suspensions without pay, and demotions may be appealed in accordance with Rule 201. (3-31-22)

b. The problem-solving procedure deals with all matters not specifically reserved for the due process procedure. Problem solving decisions may not be appealed to the Commission except as authorized by Section 67-5316, Idaho Code. (3-31-22)

02. Establishment of Agency Problem-Solving and Due Process Procedures. Each participating agency must maintain written employee problem-solving and due process procedures, which have been approved by the administrator for conformity to law and Rule 200. (3-31-22)

03. Eligibility and Time for Filing Under Problem-Solving Procedure. Any classified employee with permanent, or entrance probationary status may file under the problem-solving procedure as defined by Section 67-5315(1), Idaho Code. An employee must file under the problem-solving procedure in writing not later than ten (10) working days after being notified or becoming aware of a nondisciplinary matter which may be handled through the problem-solving procedure; however, if the filing alleges an ongoing pattern of harassment or illegal discrimination, the agency is strongly encouraged to waive any time limits. The time limit for filing will be extended due to the employee's illness or other approved leave, up to ten (10) days after return to the job. The agency may accept a filing that is or appears to be filed late. Agency policies may provide for waiver of time elements or any intermediate step of the problem-solving procedure upon mutual agreement of the employee and appointing authority. (3-31-22)

04. Elements of the Problem-Solving Procedure. The procedure must contain a statement from the

agency head encouraging employees to use the procedure for any nondisciplinary, job-related matters, and encouraging the employee, supervisors, and upper-level managers and administrators to resolve the matter at the lowest management level possible within the organization. The statement must also provide a means whereby agency representatives can obtain timely authority, if needed, to resolve the matter. The procedure must require the employee to make a reasonable attempt to discuss the issue with the immediate supervisor before filing. After a written filing is received, the procedure must provide for such additional levels of management within the employee's chain of command as are appropriate in the agency. The procedure must also provide for the use of an impartial mediator upon agreement by the employee and agency. Timelines must not exceed five (5) working days between each step unless both the employee and the agency agree, in writing, to a specific number of days to extend the timelines herein, not to exceed thirty (30) days between each step. The procedure must also inform the employee that he is entitled to be represented by a person of the employee's own choosing at each step of the procedure, except the initial informal discussion with the immediate supervisor. Two (2) or more employees may join in a single filing under the problem-solving procedure. Retaliation for filing under the problem-solving procedure, for participating as a witness, or representative is expressly prohibited. This procedure does not apply to unsatisfactory performance during entrance probation (Ref. Sections 67-5309(j), 67-5315(1)(4), Idaho Code, and Rule 152). (3-31-22)

05. Filings Alleging Sexual Harassment or Other Illegal Discrimination. Each agency's problem-solving procedure must provide an optional alternative procedure for an employee to file allegations of sexual harassment or discrimination based on race, color, sex, national origin, religion, age, or disability. The procedure must expressly prohibit sexual harassment and discrimination. Employees must be informed of their right to file complaints with the Idaho Human Rights Commission. The alternative procedure must designate a specific person or persons to receive and investigate such filings, and require that the investigation and resolution of them be conducted with maximum regard for confidentiality. (3-31-22)

06. Elements of Due Process Procedure. An agency must provide notice and an opportunity to respond before making a decision to impose any disciplinary sanction or involuntary transfer, as set forth in Section 67-5315(2), Idaho Code. With respect to notice, an agency must provide notice of the contemplated action, the basis or reason for the contemplated action, and an explanation of the evidence supporting the contemplated action. The notice must be provided to the employee and administrator concurrently. With respect to the opportunity to respond, the employee must be given the opportunity to respond to the notice and present reasons why the contemplated action should not be taken. The opportunity to respond must not occur later than ~~ten five (105)~~ working days after the employee has received notice, unless ~~both the employee and agency agree otherwise~~ an extension is approved by the appointing authority in writing. After the employee has responded, or after the period to respond has expired or has been waived in writing by the employee, whichever occurs first, the appointing authority, or designee, must make and implement the agency's decision not later than ~~ten five (105)~~ working days thereafter, excluding days the appointing authority, or designee, is out of the office, ~~unless both the employee and agency agree otherwise~~ or for other extenuating circumstances. The extension will be communicated to the employee in writing. The procedure must inform the employee of his right to be represented by a person of the employee's own choosing during the opportunity to respond. The procedure must also provide for the use of an impartial mediator upon agreement by the employee and agency. The procedure does not apply to unsatisfactory performance during entrance and promotional probation (Ref. Sections 67-5309(j), 67-5315(2), Idaho Code, and; Rules 150 through 153). The due process procedure is complete when the appointing authority, or designee, mails or delivers a decision to the affected employee. The decision must also be sent to the administrator concurrently. (3-31-22)()

07. Notification. A copy of the approved problem-solving and due process procedures must be furnished and explained to each employee with permanent, or entrance probationary status in the agency concerned. (3-31-22)

~~**08. Assistance to Agencies.** The administrator will assist agencies whenever requested in the development or revision of their agency problem solving and due process procedures. (3-31-22)~~

(BREAK IN CONTINUITY OF SECTIONS)

243. MATERNITY AND PATERNITY LEAVE.

01. Use Of Sick Leave. Pregnancy, child-birth or related medical conditions generally are considered temporary disabilities and are treated as such for sick leave purposes. Maternity and paternity leave are granted under the same conditions and requirements as other compensable and non-compensable leave under these rules, including the Family and Medical Leave Act. (3-31-22)()

02. Determination of Disability Period. The employee's physician is considered the primary authority in determining the disability period insofar as compensable sick leave is concerned. (3-31-22)

03. Additional Time Off. Maternity and paternity leave preceding and following the time that the person is disabled is leave without pay unless the employee elects to use accrued vacation leave or compensatory time off for overtime. (3-31-22)

04. Discrimination Prohibited. Pregnancy discrimination is prohibited. The employee may continue to work as long as she is physically capable of performing the duties of her position and may return to work as soon as she is physically able as determined by her physician. (3-31-22)

05. Adoption and Foster Care. Leave will be granted for adoption and foster care as set forth in the Family and Medical Leave Act. (Ref. Rule 242) (3-31-22)