

PENDING RULES

COMMITTEE RULES

REVIEW BOOK

Submitted for Review Before
**House Commerce &
Human Resources Committee**

**67th Idaho Legislature
Second Regular Session – 2024**



Prepared by:

*Office of the Administrative Rules Coordinator
Division of Financial Management*

January 2024

HOUSE COMMERCE & HUMAN RESOURCES COMMITTEE

ADMINISTRATIVE RULES REVIEW

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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. 15-0401-2301 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2024 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. The pending rule will become final and effective upon the adjournment, *sine die*, of the First Regular Session of the Sixty-eighth Idaho Legislature.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-5308 and 67-5309, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Division of Human Resources is striving to prevent the accumulation of costly, ineffective, and/or outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 4, 2023, Idaho Administrative Bulletin, [Vol. 23-10 pages 294-331](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, this pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact: Michelle Peugh, Policy Bureau Chief, at (208) 334-2263, Michelle.Peugh@dhr.idaho.gov.

DATED this 13th day of November, 2023.

Janelle White
Interim Administrator
304 North 8th Street
P.O. Box 83720
Boise, Idaho 83720-0066
Janelle.White@dhr.idaho.gov
Phone: (208) 334-2263

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Sections 67-5308 and 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 18, 2023.

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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Division of Human Resources is striving to prevent the accumulation of costly, ineffective, and/or outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the August 2, 2023 Idaho Administrative Bulletin, [Vol. 23-8, Pages 14-15](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Michelle Peugh, Bureau Chief, 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 25, 2023.

DATED this 31st day of August, 2023.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 15-0401-2301

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

000. LEGAL AUTHORITY.

Section 67-5309, Idaho Code. ()

001. SCOPE

These rules establish the policies and procedures of the Idaho Personnel System. ()

002. -- 005. (RESERVED)

006. WAIVER OF RULES.

The administrator reserves the right to waive any rule in specific instances when, in his/her opinion, such waivers are legal, warranted and justified in the interests of a more effective and responsive system of personnel administration. ()

007. -- 008. (RESERVED)

009. 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. ()

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

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. ()

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

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. ()

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. ()

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. ()

07. Base Pay. The rate paid for performing a job, excluding bonuses, shift differentials, overtime or other compensation premiums. ()

08. Classified Service. That body of positions in state agencies subject to Title 67, Chapter 53, Idaho Code, as defined therein and excludes temporary, and nonclassified appointments. ()

09. 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. ()

10. **Compensation Schedule.** The pay grades established by the Division and associated rates of pay. ()
11. **Consultant.** An independent contractor who provides professional or technical advice, counsel, or service. ()
12. **Dismissal.** The separation of an employee from classified service with cause assigned by the appointing authority pursuant to Rule 190. ()
13. **Division.** The Idaho Division of Human Resources. ()
14. **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) ()
15. **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. ()
16. **Good Cause.** The conduct of a reasonable person in the same or similar circumstances. ()
17. **Hay Method.** A methodology for establishing the relative value of jobs and used as a dimension of the pay system. ()
18. **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). ()
19. **Incumbent.** Any person holding a classified or non-classified position in state service. ()
20. **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. ()
21. **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. ()
22. **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. ()
23. **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. ()
24. **Merit Increase Matrix.** A pay distribution tool used to advance employee pay based on performance and market data. ()
25. **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. ()
26. **On-Call Time.** Time when an employee is required to be available if called upon by their agency during hours that are outside of their normally defined work schedule. ()
27. **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. ()

28. 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. ()

29. 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. ()

30. 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. ()

31. 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. ()

32. Resignation. The voluntary quitting or abandonment of state employment, excluding retirement. ()

33. Respondent. The party whose interests are adverse to those of the appellant. ()

34. 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. ()

35. 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. ()

36. 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. ()

37. 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. ()

38. 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. ()

39. 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. ()

40. Workweek. A period of seven (7) consecutive days beginning 12:01 a.m. Sunday. ()

010. -- 019. (RESERVED)

020. BASIC MERIT AND SALARY REQUIREMENTS OF THE PERSONNEL SYSTEM.

All appointments, promotions and separations in the classified service shall be based on competence, valid job requirements, and individual performance. ()

01. Examinations. Examinations shall be designed to evaluate factors pertinent to an individual's ability to perform competently the duties of the classification. ()

a. Content of Examinations. Examinations may include any questions, tests or criteria designed to evaluate the suitability of applicants for job openings within a classification. ()

b. Job Analysis and Confidentiality. No information concerning the specific content of the examination will be divulged to unauthorized personnel by the Division or other personnel who have access to the

examinations. ()

02. Eligible Candidates. The appointing authority shall make a selection from a hiring list containing eligible candidates. ()

a. Failing Score. Failure in any part of the examination may disqualify an applicant in the entire examination and from having his name placed on the hiring list. ()

03. Authorized Pay Rates. 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. ()

a. 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. ()

b. 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. ()

c. Salary Upon Transfer. A transfer between agencies 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. 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. ()

d. Salary Upon Reinstatement. Unless related to reemployment after a layoff, the salary of a reinstated employee is negotiable between the employee and appointing authority in the current pay grade for the classification in which the employee has reinstatement privileges. ()

e. Salary After Reappointment from Layoff. Employees appointed by the agency that laid them off 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. ()

f. 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 a comparable rate in the current pay grade for the classification to which they were assigned prior to leaving for military service. ()

g. 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. ()

021. BASIC REQUIREMENTS FOR VETERANS AND MILITARY PERSONNEL.

01. Application by Military Personnel. An application will be accepted after the closing date of the announcement from a person who was serving in the armed forces or undergoing service-connected hospitalization of no more than one (1) year following discharge, during any period in which the announcement was open. The application must be submitted within one hundred twenty (120) days of the applicant's separation from the armed forces or hospitalization and prior to the expiration of the register established as a result of an examination. ()

02. Return from Military Duty. An employee returning from military leave without pay 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. ()

03. Application by Disabled Veterans. A disabled veteran may file an application at any time up until a selection for any classification for which the Division maintains a register as a source for future job openings or for which a register is about to be established, provided the veteran has not already been examined twice for the same classification, does not have current eligibility on that register, or is not serving in a competitive position in the same pay grade as the classification for which application is made. ()

04. Veterans' Preference Points. ()

a. Veterans' and disabled veterans' preference points must not be used to achieve a passing score. ()

b. Veterans' and disabled veterans' preference points, when applicable under state law, will be added to the final score achieved in the examinations. Five (5) 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. ()

c. Disabled veterans', Purple Heart recipients, spouses of any eligible disabled veterans who cannot qualify for any public employment because of a service-connected disability, and unmarried widows or widowers of disabled veterans entitled to ten (10) point preference will be placed on the open-competitive register in order of their final score on the examination augmented by preference points. ()

d. Disabled veterans who have a current service-connected disability of thirty percent (30%) or more will be offered an interview when their final score places them on the hiring list. If more than ten (10) disabled veterans with a disability rating of thirty percent (30%) or more place on a hiring list, at least ten (10) will be offered an interview. ()

022. NEPOTISM.

No employee shall work under the immediate supervision of a supervisor who is a spouse, child, parent, brother, sister or the same relation by marriage. ()

023. DUAL EMPLOYMENT.

There will be no conflicting hours of work when a classified employee is employed by more than one (1) state agency. The employee must obtain approval from all appointing authorities concerned prior to beginning dual employment. ()

024. -- 059. (RESERVED)

060. ANALYSIS OF CLASSIFICATIONS.

The Division will assist appointing authorities in the analysis of positions in determining proper classification and, at the determination of the administrator, will conduct independent classification reviews of the various agencies. ()

061. AMENDMENT OF CLASSIFICATION SCHEDULE.

01. Changes To Classifications. Whenever it is necessary to establish or delete a classified position or to revise a position's responsibilities, the appointing authority will submit proposed changes to the administrator. ()

02. Approval. Each appointing authority, prior to establishing any new position within the agency, will obtain the approval of the administrator for the classification of such positions and their assignment to a pay grade in the compensation schedule. Approval by the administrator of the Division of Financial Management for sufficiency of funds is also required. ()

03. Assignment to Pay Grade Required. No person will be appointed to, employed in, or paid for services in any classified position until the position has been established, classified, and assigned to a pay grade in accordance with these rules. ()

062. APPROVAL OF NEW, REVISED AND DELETED CLASSIFICATIONS.

01. New and Refactored Classifications. New classifications of work and revised classifications require approval by both the administrator and the Division of Financial Management administrator when there is a fiscal impact. ()

02. Revised and Deleted Classifications. Revised classifications with no fiscal impact and classifications deleted from the classification schedule require approval only of the administrator. ()

063. ABOLISHMENT OF POSITIONS.

An appointing authority may abolish a position for reasons of administrative efficiency. Employees to be separated as a result shall have layoff and reemployment preference in accordance with Rules 140 through 147. ()

064. RECLASSIFICATION OF POSITIONS.

01. Procedure. Positions may be reclassified in the same pay grade, upward, or downward as determined by an analysis by the Division of the duties and responsibilities assigned by appointing authorities to specific positions. An incumbent occupying a reclassified position shall be properly classified by an appointing authority. ()

02. Effective Date. Reclassifications of positions are not effective until they are approved by the administrator, but may be retroactive to the beginning of the pay period during which approval is granted. Reclassification of an employee may not precede the effective date of the reclassification of the position. ()

065. (RESERVED)

066. COMPENSATION SURVEYS.

01. Salary Surveys. The Division will conduct or approve salary surveys, to determine salary ranges that represent labor market average rates for Hay point factored positions in classified service. ()

02. Relevant Labor Markets. Labor markets used for wage comparison will be based on recruiting markets for specific job classifications. Consultation with various appointing authorities will also contribute to labor market determination. ()

067. CALCULATION OF PAY.

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

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

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. 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. ()

068. -- 079. (RESERVED)

080. METHODS OF RECRUITMENT.

For the purpose of establishing eligibility registers, there are three (3) methods of recruitment: open competitive, agency promotional, or statewide promotional. ()

081. -- 118. (RESERVED)

119. 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. ()

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 ()

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 in the employee's personnel file. ()

120. SEASONAL APPOINTMENT.

01. Employee Rights. Employees appointed under a seasonal appointment will have all obligations, rights, and privileges of any classified employee except those accorded by Rules 140 through 147, relating to reduction in force. ()

121. TEMPORARY APPOINTMENTS (NON-CLASSIFIED).

01. Hours Limitation. Temporary appointments are limited to one thousand three hundred eighty-five (1,385) hours of work in any twelve (12) month period for any one agency. Both calculations begin on the date of the original temporary appointment. ()

02. Transition to Classified Service. Temporary employees who have served at least one thousand forty (1,040) hours of continuous service, may go from temporary status to classified entrance probation status in that same position without further application if the announcement for the temporary position from which the certified register was created indicates that the temporary position has the potential of becoming a permanent classified position. The classified position must be in the same classification and at the same location as announced. ()

122. (RESERVED)

123. REINSTATEMENTS.

01. Eligibility. A 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. ()

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

b. The current or former employee must meet the current minimum qualifications of the classification to which reinstatement is desired. ()

02. Examination. A current or former employee may be required to pass an examination for the classification to which reinstatement is desired. ()

03. Probationary Period. An appointing authority may negotiate for a probationary period as a condition of reinstatement except where prohibited.. ()

124. TRANSFERS.

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

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. ()

03. Probationary Period. An appointing authority may negotiate with an employee for a probationary period as a condition for a voluntary transfer. ()

04. 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. ()

125. RESIGNATION.

01. Notice. A classified employee may resign at any time. A resignation is effective at the time designated by the employee, without need for written or advance notice, or acceptance of the resignation by the appointing authority. ()

02. Rescission and Reinstatement. Once an employee has submitted a resignation, reinstatement is in the discretion of the appointing authority as. The appointing authority may but is not required to allow an employee to rescind a resignation prior to its effective date. ()

03. Resignation in Lieu of Dismissal. An employee may resign in lieu of being dismissed for cause. ()

126. -- 128. (RESERVED)

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: ()

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

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

130. LIMITATION ON LENGTH OF APPOINTMENT.

Acting appointments are limited to the period of time necessary to fill the vacancy pursuant to procedures prescribed in these rules but in no case can continue beyond one thousand forty (1,040) hours of credited state service unless specifically extended by the administrator. ()

131. SALARY.

For any credited state service which an employee serves in a classification in an acting capacity, he or she shall receive the salary for the classification as though he or she had actually been promoted. ()

132. EXPIRATION OF APPOINTMENT.

01. Return of Incumbent. When the incumbent of the classification returns from leave of absence, or the vacant position is filled, the acting appointment expires. The acting appointee is returned to the class, the pay grade and rate held immediately preceding the acting appointment. ()

02. Failure of Incumbent to Return. Should the employee on leave of absence separate from state service, the employee serving in the acting appointment may continue to serve in that capacity until the vacancy has been filled but in no case exceed the time limits prescribed in Rule 130. ()

133. -- 139. (RESERVED)

140. REDUCTION IN FORCE.

01. Conditions for Layoff. An appointing authority may lay off an employee whenever necessary due to: shortage of funds or work; reorganization; the end of a limited service appointment; employee's failure to complete interagency promotional probation when demotion options are not available; or abolishment of one (1) or more positions. ()

02. Layoff by Position. Reduction in force must be by classification of position. ()

a. Reduction in force may be limited to or specifically exclude employees appointed under selective certification for bona fide occupational qualifications, or appointed to a classification with minimum qualification specialties. Inclusions or exclusions must include or exclude all incumbents of the classification appointed under similar selective certification, or the same option or minimum qualification specialty and must be approved in advance by the administrator. ()

b. An appointing authority may petition the administrator to exclude an individual from a reduction in force whose retention may be required to meet agency mission critical needs. Requests must provide a documented rationale with exclusions approved in advance by the administrator. ()

c. When a limited service project is completed or funding concluded, the limited service appointee is separated from state service as a layoff. However, limited service appointees have no reemployment preference and will not displace other regular permanent or limited services staff via voluntary demotion in lieu of layoff. ()

03. Layoff Unit. Reduction in force must be agency-wide or by organizational unit designated for layoff purposes. Layoff units are geographic, programmatic, or other identified subdivisions of an agency designated for layoff purposes by the appointing authority. They must be approved by the administrator before the effective date of the layoff. Organizational layoff unit designations must be renewed with a change in appointing authority or administrator. ()

04. Reduction of Hours Worked. An involuntary reduction in the number of hours worked for a selected position constitutes a layoff unless there is an equal reduction of hours worked for all positions in the same classification in the agency or approved layoff unit for a limited period of time, such as a furlough. ()

05. Downward Reclass. A material change in duties of one (1) or more positions resulting in an employee's reclassification to a classification allocated to one (1) pay grade lower does not constitute a layoff. More than one (1) pay grade change downward is considered a layoff, unless the change of duties is disciplinary. ()

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

()

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. ()

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. ()

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. ()

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

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. ()

142. CREDITED STATE SERVICE.

Eligible credited state service for purposes of Rule 140 is defined as follows: ()

01. Service Prior to State Personnel System. All credited state service prior to the establishment of classified service, Title 67, Chapter 53, Idaho Code. ()

143. REDUCTION IN FORCE DETERMINATION AND NOTIFICATION.

01. Identification of Classifications. The appointing authority will identify the classification of positions to be reduced or eliminated. ()

02. Calculation of Retention Points. Retention points will be calculated for all employees assigned to the classification of position including those serving in underfill positions. Retention points need not be calculated where layoff involves a single-incumbent class. ()

03. Order of Reduction in Force. The order of reduction in force will be by type of appointment held by the employee in the affected classification as follows: first to be laid off are the entrance probationary appointees, and then the permanent appointees including those serving a voluntary probation. Employees will be placed on the layoff list beginning with the employee with the highest number of retention points. Employee layoffs will be made from the layoff list in inverse order. When two (2) or more employees have the same combined total of retention points, retention will be determined in the following sequence: ()

a. The employee with the highest total retention points for the past thirty-six (36) months. ()

b. Random selection. ()

04. Notification to Affected Employees. Each employee affected will be notified in writing of layoff and the rationale for the decision at least fifteen (15) calendar days prior to the effective date. Notification will include a copy of the agency layoff procedure and a copy of the computation of retention points when required.

()

05. Notification to Administrator. The appointing authority must give written notice of layoff to the administrator at least fifteen (15) calendar days prior to its effective date and must provide a list of persons affected by the layoff with their retention point calculations and must indicate which employees will be laid off. ()

144. PLACEMENT ON REGISTER WITH REEMPLOYMENT PREFERENCE.

A permanent employee laid off from their job or who chooses a voluntary demotion in lieu of a layoff, under these rules shall be placed on their classification's register with reemployment preference. Such placement will be for one (1) year from the effective date of demotion or layoff, or until the employee or former employee declines a total of three (3) separate job offers without good cause, whichever comes first. An employee or former employee may request their name be removed at any time. ()

145. USE OF REGISTERS WITH REEMPLOYMENT PREFERENCE.

01. Priority for Reemployment by Agency that Conducted the Layoff. ()

a. The employee who has been laid off will be offered reemployment to a position in the classification from which laid off, before any person outside that agency may be promoted to, transferred to, reinstated or appointed to that classification by an appointing authority of that agency. ()

b. When attempting to fill vacancies for a classification where a lay off occurred, the agency will provide an opportunity to interview and will make their hiring selection from the individuals their agency laid off from the classification, including those separated from state service under Rule 241.02 and those that took a voluntary demotion in lieu of layoff. ()

c. Individuals being returned to the classification from which they were laid off will be reinstated with the same salary, permanent status and their sick leave balance restored. ()

02. Consideration for Hire by Other Agencies. For promotional opportunities individuals who have been laid off must be offered the opportunity to interview. ()

03. Employment by Other Agency. Individuals may be reappointed or reinstated if eligible. The salary of an employee re-hired after a layoff is negotiable between the employee and new appointing authority in the current pay grade for the classification in which the employee is appointed. ()

04. Return to Register. If an individual finds another agency's position unsatisfactory or does not satisfactorily complete a voluntary probation period, he may be placed back on a register for the remainder of their twelve (12) month time frame. Individuals appointed to a position, other than the classification from which laid off, will remain on preference register status for the remainder of the twelve-month (12) period if otherwise eligible. ()

146. (RESERVED)

147. VOLUNTARY DEMOTION IN LIEU OF LAYOFF.

Within their layoff unit, an employee with permanent status may choose to accept a voluntary demotion rather than be laid off. Demotion options are limited to a classification in which the employee held permanent status in the agency. Such demotion will not be permitted if it causes the layoff of an employee with greater retention points. ()

01. Eligibility. ()

a. Qualified. Employee must meet the classification's current minimum qualifications and any minimum qualification specialties. ()

b. Exclusion. Limited service appointees are not eligible to take any voluntary demotion that would result in the displacement of other employees. However, voluntary demotions to a vacant position are allowed with the approval of the appointing authority. ()

02. Acceptance. To accept a voluntary demotion rather than a layoff, the employee must notify the appointing authority in writing of their decision no later than three (3) working days after written notification of the layoff and opportunity to demote to a specific position. ()

148. -- 149. (RESERVED)

150. PROBATIONARY PERIODS.

01. Probationary Period Required. Every appointment and promotion to a classified position is probationary. ()

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: ()

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. ()

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. ()

c. Voluntary probation is an agreement between employees and the appointing authority for employment actions such as reinstatement, transfer, or voluntary demotion. 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. ()

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. ()

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

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. ()

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. ()

151. SATISFACTORY SERVICE.

When a probationary employee has satisfactorily served the probationary period hours, the employee will become permanent status. Certification to permanent status is effective one thousand forty (1,040) hours of credited state service after appointment, except that it is effective two thousand eighty (2,080) hours of credited state service after appointment for peace officer classifications unless either period has been extended ()

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. ()

02. During Entrance and Voluntary Probation. ()

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. ()

b. Notice to the employee of termination for unsatisfactory service must be made at least fifteen (15) calendar days prior to the effective date of termination, unless there are extenuating circumstances. ()

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. ()

02. During Promotional Probation. If an employee on promotional probation does not meet performance expectations: ()

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. ()

b. If no position is available for the voluntary demotion option, the employee may be laid off and may request their name be placed on a register for the classification where they last held permanent status. ()

c. When reinstatement occurs in the classification they promoted from, the employee's name is removed from reemployment required preference status. ()

154. FAILURE TO PROVIDE PERFORMANCE EVALUATION.

If the appointing authority fails to provide a performance evaluation, the employee shall be considered to have satisfactorily completed the probationary period and be certified to permanent status as provided unless the probationary period has been extended by the administrator. ()

155. -- 158. (RESERVED)

159. STATUS AND TENURE.

01. Probationary Promotions. Employees serving a promotional probationary period have continued permanent status in the classification from which promoted until they are certified as having satisfactorily completed the promotional probationary period in the classification to which promoted. ()

160. -- 168. (RESERVED)

169. PROMOTIONS.

01. Interagency Promotions. All interagency promotions must be made using statewide promotional registers (Ref. Rule 101.03) ()

02. Eligibility for Promotion. Promotional appointees must have permanent status (Ref. Rule 159) and meet the minimum qualifications of the promotional classification. ()

03. Promotion, In-Grade. To reflect unique agency organization design, an agency may choose to request an internal competitive process to recognize the advancement of an employee with permanent status from a position occupied in one classification to a position in another classification having greater points or a unique

specialty area, but within the same pay grade. With the approval of the administrator, an in-grade promotion will be treated in all regards as a promotion. ()

170. -- 178. (RESERVED)

179. DEMOTIONS.

Demotions are reductions of an employee from a position which the employee occupies in one classification to a position in another classification in a lower pay grade. Demotions authorized under these rules apply to both probationary and permanent status employees who meet the minimum qualifications of the classification to which demoted. ()

180. (RESERVED)

181. -- 189. (RESERVED)

190. DISCIPLINARY ACTIONS.

01. Cause for Disciplinary Actions or Separation From State Service. Dismissal, suspension, demotion, or the reduction in pay, of a classified employee, may occur for any of the following causes during the employee's employment: ()

a. Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes, or rules of the agency or the Division and Idaho Personnel Commission. ()

b. Inefficiency, incompetency, or negligence in performing duties, or job performance that fails to meet established performance standards. ()

c. Physical or mental incapability for performing assigned duties, if a reasonable accommodation cannot be made for the disabling condition. ()

d. Refusal to accept a reasonable and proper assignment from an authorized supervisor. ()

e. Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the agency. ()

f. Intoxication or being under the influence of alcohol, or the misuse of medications or controlled substances, while on duty. ()

g. Careless, negligent, or improper use or unlawful conversion of state property, equipment, or funds. ()

h. Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage. ()

i. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude. ()

j. Acceptance of gifts in exchange for influence or favors given in the employee's official capacity. ()

k. Habitual pattern of failure to report for duty at the assigned time and place. ()

l. Habitual improper use of sick leave. ()

m. Unauthorized disclosure of confidential information from official records. ()

n. Unapproved absence without leave. ()

- o.** Misstatement or deception in application for employment. ()
- p.** Failure to obtain or maintain a current license or certificate lawfully required as a condition in performance of duties. ()
- q.** Prohibited participation in political activities. ()

02. Suspension for Investigation. An appointing authority may place an employee on administrative leave for investigation of disciplinary causes enumerated in Rule 190.01. Each suspension for investigation will be superseded by reinstatement to duty, dismissal, disciplinary demotion, or suspension within thirty (30) calendar days of the suspension for investigation or within an extension of an additional thirty (30) calendar days approved by the administrator. Further extensions may be granted with the approval of the Administrator. ()

03. Disciplinary Suspension. An appointing authority may suspend without pay an employee for discipline for causes enumerated above. Disciplinary suspension of an employee with permanent status is subject to appeal by the employee to the Commission. ()

04. Suspension on Felony Charges. An appointing authority may suspend without pay an employee upon the issuance of a complaint, an information or indictment for felony charges. Such suspensions may remain in effect during the time such charges are pending. Full reinstatement of all benefits and salary that the employee would have otherwise been entitled must be provided by the appointing authority to the employee upon a subsequent finding that charges or information were without grounds or the employee was not found guilty. For the purpose of this rule, a judgment withheld under Rule 33(d) of the Idaho Rules of Criminal Procedure is a conviction. ()

05. Notice to Administrator. Whenever an appointing authority considers it necessary to take disciplinary action against an employee, he must notify the employee and the administrator concurrently in writing; and set forth the specific rules violated and the reasons for the action. Suspensions with pay for investigation may be made without prior notice to the employee; in this case, the appointing authority must notify the administrator as soon as practical. ()

191. -- 199. (RESERVED)

200. PROBLEM-SOLVING AND DUE PROCESS PROCEDURES.

01. Overview of Procedures. ()

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. ()

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. ()

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. ()

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. ()

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. ()

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. ()

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 five (5) working days after the employee has received notice, unless 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 five (5) working days thereafter, excluding days the appointing authority, or designee, is out of the office, 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. 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. ()

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. ()

201. APPEAL PROCEDURE.

01. Idaho Rules of Administrative Procedure of the Attorney General. In addition to the following rules on appeals and petitions for review, the "Idaho Rules of Administrative Procedure of the Attorney General" on contested cases, IDAPA 04.11.01.000 et seq., apply with the following exceptions, which are inconsistent with the

Commission's statute or practice: IDAPA 04.11.01.055, 202, 240, 250, 270.01, 280, 300, 302, 651, 720, 730, 740, 790, 791, 821.02, and 860. Petitions for rulemaking and declaratory rulings are addressed in Rules 270 and 271. ()

02. Filing of Appeal and Appearances. Every appeal filed with the Commission must be written and state the decision that is being appealed and the action requested of the Commission. The Commission must serve a copy of the appeal on the respondent and upon the legal counsel for the Commission. Notices of appearance and notices of substitution of counsel need not be filed by deputy attorneys general or members of law firms already representing a party in an appeal or petition for review. ()

03. Time for Appeal. An appeal from a decision of an appointing authority is deemed to be timely filed if received at the office of the Commission within thirty-five (35) calendar days after completion of the agency due process procedure. Personal delivery or deposit in the United States mail, postage prepaid, of a written notification to the affected employee of the appointing authority's decision constitutes completion of the agency due process procedure. An appeal of a decision or action of the administrator or staff must be filed at the office of the Commission within thirty-five (35) calendar days of personal delivery of notice of the decision or action, deposit of the notice in the United States mail, postage prepaid, or deposit of the notice in Statehouse mail. ()

04. Non-Jurisdictional Appeals. Appeals which are non-jurisdictional may be dismissed without motion by the hearing officer, the chair of the Commission, or his designee. If a hearing officer orders such a dismissal, the dismissal may be appealed to the Commission as a petition for review pursuant to Rule 202.01. If the chair of the Commission orders such a dismissal, it constitutes the final order of the Commission and may be appealed pursuant to Sections 67-5317(3) and 67-5318, Idaho Code. ()

05. Setting of Hearing. Within fifteen (15) days after receiving the appeal from the Commission, the hearing officer must consult with the parties to set a mutually agreeable date for hearing. The hearing officer may thereafter postpone or continue the hearing for good cause. ()

06. Filing of Documents. Once an appeal is referred to the hearing officer, all documents relating thereto must be filed directly with the hearing officer during the pendency of the appeal with copies provided simultaneously to opposing counsel and unrepresented parties. ()

07. Burden of Proof. In disciplinary actions, the appointing authority has the burden of proving cause for the discipline by a preponderance of the evidence. In all other actions, the appellant has the burden of proof by a preponderance of the evidence. ()

08. Open Hearing. Every hearing is public, unless the hearing officer closes the hearing for good cause. Individual parties may represent themselves (pro se) or be represented by an attorney. ()

09. Protective Orders. The hearing officer may issue protective orders limiting access to information obtained in the course of a hearing. ()

10. Decision of Hearing Officer. The hearing officer must issue a decision in the form of a preliminary order explaining the right to file a petition for review under Section 67-5317, Idaho Code. The preliminary order, consisting of such findings of fact, conclusions of law and orders as are necessary, together with the record of the proceedings must be filed at the office of the Commission with a copy sent or delivered to the parties. A motion for reconsideration under Section 67-5243, Idaho Code, is not permitted. ()

11. Procedure for Award of Attorney Fees and Costs. As part of his preliminary order, the hearing officer must make findings as to the entitlement to attorney fees and costs, if any, pursuant to Section 12-117, Idaho Code. If the hearing officer finds a prevailing party is entitled to statutory attorney fees and costs, the prevailing party must file a memorandum of costs, including a supporting affidavit stating the basis and method of computation of the amount claimed. The memorandum must be filed with the hearing officer not later than ten (10) working days after receipt of the hearing officer's decision or no attorney fees and costs may be awarded. Objections to the award of attorney fees and costs must be filed not later than ten (10) working days after receipt of the memorandum of costs and supporting affidavit. The hearing officer must conduct a hearing on the award of attorney fees and costs within ten (10) days of receiving any objections to the award. If no objections are timely filed with the hearing officer, or if

the parties stipulate to have the matter decided on the briefs, no hearing is required. The hearing officer determines the amount of the award and must make written findings as to the basis and reasons for the award within ten (10) days after the hearing on the award of attorney fees and costs. If no hearing is required, the hearing officer must issue his decision on the award of attorney fees and costs no later than thirty (30) days after receipt of the prevailing party's memorandum of costs and supporting affidavit. ()

12. Factors Considered in Award of Attorney Fees and Costs. The following factors are considered in the determination of an award of attorney fees and costs: ()

- a. The time and labor required; ()
- b. The experience and ability of the attorney; ()
- c. The prevailing charges for like work; ()
- d. The amount involved and the results obtained; ()
- e. Awards in similar cases; and ()
- f. Any other factor that appears pertinent to the award. ()

202. PETITION FOR REVIEW PROCEDURE.

01. Filing of Petition for Review. A petition for review shall be filed at the office of the Commission within thirty-five (35) days of the hearing officer's decision issued pursuant to Rule 201.10. The petition shall be in writing and specifically cite the alleged errors of fact or law made by the hearing officer. ()

02. Stay of Hearing Officer's Decision. Upon the filing of the petition for review, the jurisdiction of the hearing officer in the matter is ended except for resolving post-hearing motions and awarding attorney fees and costs. The hearing officer's decision and any orders entered pursuant to Rules 201.10 and 201.11 will be automatically stayed. ()

03. Nature of Hearing. The hearing of the Commission on a petition for review will be limited to oral arguments regarding issues of law and fact as may be found in the record established before the hearing officer and any post-hearing orders. Written arguments or briefs and motions regarding the petition for review will be allowed under such terms as the Commission may direct in its notice of hearing, which will be issued at least twenty-eight (28) days prior to the date set for hearing. ()

04. Transcript. If the petition for review involves questions of fact, the appellant shall provide a full transcript of the proceedings before the hearing officer for the Commission to review. The respondent may pay for an additional copy of the transcript for respondent's own use. ()

05. Requests for Postponement and Other Motions. ()

a. Except in emergencies, a request for postponement shall be filed in writing by a party or representative not later than seven (7) days before the scheduled hearing. The Chair of the Commission, or his or her designee, may determine whether good cause is shown for the postponement and grant or deny the request on behalf of the Commission. ()

b. Motions to dismiss for lack of jurisdiction shall be decided by the Commission. All other motions shall be considered by the Chair of the Commission or at the Chair's discretion may be referred to one (1) Commissioner, whose decision on the motion may be communicated to the parties by letter or other informal means, by the Chair or by counsel to the Commission. ()

06. Decision on Petition for Review. The decision of the Commission shall include a statement of appeal rights under Section 67-5318, Idaho Code. Motion for reconsideration of Commission decisions pursuant to Section 67-5246, Idaho Code are not permitted. The Commission shall file the original copy of its decision with the

record of the proceedings and mail copies to the parties promptly. ()

07. Record of the Proceedings. A verbatim record of the proceedings at hearings before the Commission shall be maintained either by electrical devices or by stenographic means, as the Commission may direct, but if any party to the action requests a stenographic record of the proceedings, the record shall be done stenographically. The requesting party shall pay the costs of reporting the proceedings. ()

08. Attorney Fees and Costs in a Petition for Review. In its decision on petition for review, the Commission shall make findings as to the entitlement to attorney fees and costs, if any, pursuant to Section 12-117, Idaho Code. If the Commission finds the prevailing party, if any, is entitled to attorney fees and costs, the prevailing party shall file a request for attorney fees and costs, with accompanying memorandum and affidavit in support of the request described in Rule 201.11, with the Commission not later than ten (10) working days after receipt of the Commission's decision. Objections to the award of attorney fees and costs shall be filed not later than ten (10) working days after receipt of the request for attorney fees and costs. The Commission shall determine the amount of the award, if any, taking into account the factors defined in Rule 201.12. ()

09. Protective Orders. The Commission may issue protective orders limiting access to information in the record. ()

203. -- 209. (RESERVED)

210. PERFORMANCE EVALUATIONS.

01. Performance Evaluations. Each agency shall use the statewide online performance evaluation system. ()

02. Use of Evaluations. Performance evaluations should be used in connection with promotions, transfers, demotions, retentions, separations, and reassignments and used as the affirmative certification for merit increases, bonuses, and salary equity increases and for certifying a probationary employee to permanent status. Other uses of performance evaluations are optional with the appointing authority. ()

03. Evaluation Schedule. All classified employees must be evaluated for their performance during probationary periods for appointments and promotions and for every two thousand eighty (2,080) hours of credited state service thereafter (generally, an annual basis). Part-time employees must be evaluated on an annual basis. ()

211. -- 239. (RESERVED)

240. WORKERS' COMPENSATION OR DISABILITY.

01. Layoff After Twelve Weeks Disability. If the employee becomes disabled, whether or not due to a workers' compensation injury, and is unable to fully return to work after twelve (12) weeks' absence during any consecutive fifty-two (52) week period the employee's position may be declared vacant unless otherwise prohibited by state or federal law. The twelve (12) weeks' period of absence need not occur consecutively. The employee's name is certified to a reemployment preference register when the administrator has been notified by the physician that the employee is able to return to work. Conditional releases will be considered in accordance with the Americans with Disabilities Act. ()

241. SEPARATION UPON FAILURE TO RETURN TO WORK.

Except for those employees on authorized leave or placed on a register with reemployment preference prescribed by Rule 241.02.a., an employee who has not returned to work within five (5) working days after approved paid or unpaid leave or release by his or her physician shall be considered as having voluntarily separated. Such separation shall be treated as a voluntary resignation, and the employee shall remain eligible for reinstatement. Written notification of his or her separation/resignation shall be mailed to the last known home address. Any objections by the employee to the notice, must be received within five (5) working days of receipt of the notice, or acceptance of the separation/resignation will be presumed. If objections are received within the timeline, a disciplinary separation (dismissal) or other formal disciplinary action may be pursued as provided in Rule 190. ()

242. -- 249. (RESERVED)

250. ADMINISTRATIVE LEAVE.

01. Investigation and Due Process Procedure. Administrative leave may be granted by an appointing authority for employee investigations and due process procedures in accordance with Rule 190.02. ()

02. Closure or Inaccessibility. Administrative leave for closure or inaccessibility of a state office/ facility due to severe weather, emergencies or incidents that could jeopardize agency operations, or the safety of others. ()

03. Other Reasons. Administrative leave for reasons other than those listed above must be approved in advance by the administrator. ()

251. -- 271. (RESERVED)

272. POLICY MAKING AUTHORITY.

To address the need for all classified employees to be treated fairly, and in situations where the State may be considered as one (1) employer, the Division Administrator may issue guidance to provide consistent interpretation of federal law, state law, executive order or rule. Statewide policies governed by the administrator shall be adopted by appointing authorities. ()

273. -- 999. (RESERVED)

[Agency redlined courtesy copy]

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

000. LEGAL AUTHORITY.

~~The rules of the Division of Human Resources and Idaho Personnel Commission are adopted pursuant to Section 67-5309, Idaho Code. The Division has authority to determine the policies of the Idaho Personnel System and make such rules as are necessary for the administration of the Personnel System. The administrator of the Division is appointed by the Governor, subject to confirmation by the Senate, and serves at the pleasure of the Governor pursuant to Section 67-5308(2), Idaho Code.~~ (3-31-22)()

001. SCOPE

These rules establish the policies and procedures of the Idaho Personnel System. ()

002. -- 005. (RESERVED)

006. WAIVER OF RULES.

The administrator reserves the right to waive any rule in specific instances when, in his/her opinion, such waivers are legal, warranted and justified in the interests of a more effective and responsive system of personnel administration. ()

007. -- 008. (RESERVED)

~~**009. DUTIES OF THE ADMINISTRATOR.**~~

~~In addition to other duties as assigned by law, the administrator provides administrative support to the Idaho Personnel Commission, has custody of the books and records of the Division and the Commission, and maintains a~~

~~record of the proceedings before the Commission and its hearing officers.~~

~~(3-31-22)~~

01009. 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. ()

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

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. ()

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

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. ()

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. ()

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. ()

07. Base Pay. The rate paid for performing a job, excluding bonuses, shift differentials, overtime or other compensation premiums. ()

08. Classified Service. That body of positions in state agencies subject to Title 67, Chapter 53, Idaho Code, as defined therein and excludes temporary, and nonclassified appointments. ()

09. 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. ()

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

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

12. Dismissal. The separation of an employee from classified service with cause assigned by the appointing authority pursuant to Rule 190. ()

13. Division. The Idaho Division of Human Resources. ()

14. 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) ()

15. 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. ()

- 16. Good Cause.** The conduct of a reasonable person in the same or similar circumstances. ()
- 17. Hay Method.** A methodology for establishing the relative value of jobs and used as a dimension of the pay system. ()
- 18. 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). ()
- 19. Incumbent.** Any person holding a classified or non-classified position in state service. ()
- ~~**20. 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)~~
- 210. 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. ()
- ~~**221. 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. ()~~
- ~~**232. 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. ()~~
- 243. 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. ()
- 254. Merit Increase Matrix.** A pay distribution tool used to advance employee pay based on performance and market data. ()
- 265. 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. ()
- ~~**27. 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)~~
- 286. On-Call Time.** Time when an employee is required to be available if called upon by their agency during hours that are outside of their normally defined work schedule. ()
- 297. 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. ()
- ~~**3028. 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. ()~~
- ~~**3129. 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. ()~~
- 320. 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. ()
- 331. 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. ()

342. Resignation. The voluntary quitting or abandonment of state employment, excluding retirement. ()

353. Respondent. The party whose interests are adverse to those of the appellant. ()

364. 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)()

375. 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. ()

386. 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. ()

397. 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. ()

4038. 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. ()

4439. 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)

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

0140. -- 019. (RESERVED)

020. BASIC MERIT AND SALARY REQUIREMENTS OF THE PERSONNEL SYSTEM.

All appointments, promotions and separations in the classified service shall be based on competence, valid job requirements, and individual performance. (3-31-22)

01. Examinations. Examinations shall be designed to evaluate factors pertinent to an individual's ability to perform competently the duties of the classification. ()

a. Content of Examinations. Examinations may include any questions, tests or criteria designed to evaluate the suitability of applicants for job openings within a classification. ()

b. Job Analysis and Confidentiality. No information concerning the specific content of the examination will be divulged to unauthorized personnel by the Division or other personnel who have access to the examinations. ()

02. Eligible Candidates. The appointing authority shall make a selection from a hiring list containing eligible candidates. ()

a. Failing Score. Failure in any part of the examination may disqualify an applicant in the entire examination and from having his name placed on the hiring list. ()

03. Authorized Pay Rates. 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. ()

a. 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. ()

b. 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. ()

c. Salary Upon Transfer. A transfer between agencies 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. 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. ()

d. Salary Upon Reinstatement. Unless related to reemployment after a layoff, the salary of a reinstated employee is negotiable between the employee and appointing authority in the current pay grade for the classification in which the employee has reinstatement privileges. ()

e. Salary After Reappointment from Layoff. Employees appointed by the agency that laid them off 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. ()

f. 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 a comparable rate in the current pay grade for the classification to which they were assigned prior to leaving for military service. ()

g. 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. ()

021. DISCRIMINATION PROHIBITED.

No person shall be discriminated against in regards to appointments, promotions, demotions, separations, transfers, compensation, or other terms, conditions, or privileges of employment because of race, national origin, color, sex, age, religion, disability, or veteran status (unless under other than honorable conditions). (3-31-22)

021. BASIC REQUIREMENTS FOR VETERANS AND MILITARY PERSONNEL.

01. Application by Military Personnel. An application will be accepted after the closing date of the announcement from a person who was serving in the armed forces or undergoing service-connected hospitalization of no more than one (1) year following discharge, during any period in which the announcement was open. The application must be submitted within one hundred twenty (120) days of the applicant's separation from the armed forces or hospitalization and prior to the expiration of the register established as a result of an examination. ()

02. Return from Military Duty. An employee returning from military leave without pay 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. ()

03. Application by Disabled Veterans. A disabled veteran may file an application at any time up until a selection for any classification for which the Division maintains a register as a source for future job openings or for which a register is about to be established, provided the veteran has not already been examined twice for the same classification, does not have current eligibility on that register, or is not serving in a competitive position in the same pay grade as the classification for which application is made. ()

04. Veterans' Preference Points. ()

a. Veterans' and disabled veterans' preference points must not be used to achieve a passing score. ()

b. Veterans' and disabled veterans' preference points, when applicable under state law, will be added to the final score achieved in the examinations. Five (5) 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. ()

c. Disabled veterans', Purple Heart recipients, spouses of any eligible disabled veterans who cannot qualify for any public employment because of a service-connected disability, and unmarried widows or widowers of disabled veterans entitled to ten (10) point preference will be placed on the open-competitive register in order of their final score on the examination augmented by preference points. ()

d. Disabled veterans who have a current service-connected disability of thirty percent (30%) or more will be offered an interview when their final score places them on the hiring list. If more than ten (10) disabled veterans with a disability rating of thirty percent (30%) or more place on a hiring list, at least ten (10) will be offered an interview. ()

022. PROHIBITED QUESTIONS.

~~All questions on applications and examinations shall be based on valid job requirements. Questions that impermissibly discriminate on the basis of race, national origin, color, sex, age, religion, disability, political affiliation, or veteran status are prohibited. Questions regarding veteran status for compliance with veterans' preference are permitted.~~ (3-31-22)

023. BONA FIDE OCCUPATIONAL QUALIFICATION.

~~Qualification requirements based on age or gender may be established as necessary for specific positions by the Administrator of the Division.~~ (3-31-22)

024. CONFLICT OF INTEREST AND PERSONAL CONDUCT.

~~The maintenance of a high standard of honesty, ethics, impartiality, and conduct by state employees is essential to ensure proper performance of state business and strengthen the faith and confidence of the people of Idaho in the integrity of state government and state employees. All appointing authorities shall establish such policies and standards necessary to prevent conflicts of interest.~~ (3-31-22)

025. NEPOTISM.

No employee shall work under the immediate supervision of a supervisor who is a spouse, child, parent, brother, sister or the same relation by marriage. ()

026. DUAL EMPLOYMENT.

There will be no conflicting hours of work when a classified employee is employed by more than one (1) state agency. The employee must obtain approval from all appointing authorities concerned prior to beginning dual employment. ()

027. -- 049. (RESERVED)

050. CONSULTANTS AND PERSONS EMPLOYED UNDER INDEPENDENT CONTRACT.

~~Nothing in these rules prohibits the use of independent contractors or consultants for legal, medical, technical, or other professional services, provided that they are not engaged in the performance of administrative duties for any state agency. No position in the state classified service will be filled by a consultant or independent contractor.~~ (3-31-22)

01. Limited Use Only. ~~Individuals employed through contracts with temporary services or professional staffing agencies will be utilized only for short-term situations.~~ (3-31-22)

02. Conflict of Interest/Nepotism. ~~Agency policies regarding conflict of interest/nepotism should~~

~~address the award of work to consultants and contractors. (See Rules 024 and 025 and Ref. Section 18-1359, Idaho Code. (3-31-22)~~

~~**03. Not to Be Treated as Employees.** Independent contractors, their staff or consultants must not be treated as employees. Appointing authorities must comply with current Internal Revenue Service guidance on independent contractor and employee definitions. (3-31-22)~~

~~**051.—059. (RESERVED)**~~

~~**060. ADOPTION OF CLASSIFICATION SCHEDULE.**~~

~~The Division will develop, adopt, and make effective a classification schedule consisting of classification specifications allocated to various pay grades in the compensation schedule for all positions based on an analysis of the duties and responsibilities of representative positions. (3-31-22)~~

~~**0640. ANALYSIS OF CLASSIFICATIONS.**~~

~~The Division will assist appointing authorities in the analysis of positions in determining proper classification and, at the determination of the administrator, will conduct independent classification reviews of the various agencies. ()~~

~~**062. AUTHORITY.**~~

~~The administrator has the responsibility and authority to classify positions in the classification schedule. (3-31-22)~~

~~**063. REVIEW OF CLASSIFICATION SCHEDULE.**~~

~~The administrator will ensure the appropriateness and accuracy of classification specifications. (3-31-22)~~

~~**0641. AMENDMENT OF CLASSIFICATION SCHEDULE.**~~

~~**01. Changes To Classifications.** Whenever it is necessary to establish or delete a classified position or to revise a position's responsibilities, the appointing authority will submit proposed changes to the administrator. ()~~

~~**02. Approval.** Each appointing authority, prior to establishing any new position within the agency, will obtain the approval of the administrator for the classification of such positions and their assignment to a pay grade in the compensation schedule. Approval by the administrator of the Division of Financial Management for sufficiency of funds is also required. ()~~

~~**03. Assignment to Pay Grade Required.** No person will be appointed to, employed in, or paid for services in any classified position until the position has been established, classified, and assigned to a pay grade in accordance with these rules. ()~~

~~**0652. APPROVAL OF NEW, REVISED AND DELETED CLASSIFICATIONS.**~~

~~**01. New and Refactored Classifications.** New classifications of work and revised classifications require approval by both the administrator and the Division of Financial Management administrator when there is a fiscal impact. ()~~

~~**02. Revised and Deleted Classifications.** Revised classifications with no fiscal impact and classifications deleted from the classification schedule require approval only of the administrator. ()~~

~~**0663. ABOLISHMENT OF POSITIONS.**~~

~~An appointing authority may abolish a position for reasons of administrative efficiency. Employees to be separated as a result shall have layoff and reemployment preference in accordance with Rules 140 through 147. ()~~

~~**0674. RECLASSIFICATION OF POSITIONS.**~~

~~**01. Procedure.** Positions may be reclassified in the same pay grade, upward, or downward as determined by an analysis by the Division of the duties and responsibilities assigned by appointing authorities to~~

specific positions. An incumbent occupying a reclassified position shall be properly classified by an appointing authority ~~within thirty (30) calendar days of being notified by the administrator that the duties and responsibilities assigned to the position are not properly classified.~~ (3-31-22)()

02. Effective Date. Reclassifications of positions are not effective until they are approved by the administrator, but may be retroactive to the beginning of the pay period during which approval is granted. Reclassification of an employee may not precede the effective date of the reclassification of the position. ()

068. VIOLATIONS.

~~Accurate position classification is the foundation for providing equal pay for equal work, identification of actual work performed, fair employment and equal opportunity for promotions, and equitable compensation. Upon the administrator's determination that classification rules have been violated, the appointing authority will be informed and provided thirty (30) days to take actions necessary to correct the situation or submit a corrective action plan to the administrator. If these actions do not occur, the administrator will inform the employee, the appointing authority, and the state controller that the employee is being compensated in violation of these rules. (Ref. Sections 67-5308 and 67-5312, Idaho Code)~~ (3-31-22)

069~~5~~. (RESERVED)

070~~66~~. COMPENSATION OF EMPLOYEES SURVEYS.

~~**01. Assignment to Pay Grade.** As a basis for pay equity, the Division will use a combination of point factoring and market data to determine the relative value of each classification. (Ref. Rule 074.01 and Section 67-5309B, Idaho Code)~~ (3-31-22)

~~**02. Factoring.** The Division will use the Hay method to determine the relative value of each classification, and as a basis for internal pay equity. (Ref. Section 67-5309B, Idaho Code)~~ (3-31-22)

~~**03~~1~~.** Salary Surveys.~~ The Division will conduct or approve salary surveys, to determine salary ranges that represent labor market average rates for Hay point factored positions in classified service. ()

~~**04~~2~~.** Relevant Labor Markets.~~ Labor markets used for wage comparison will be based on recruiting markets for specific job classifications. Consultation with various appointing authorities will also contribute to labor market determination. ()

~~**a.** When the competition for employees is the local area market, the comparison will be made from a survey representing public and private employers in the state of Idaho.~~ (3-31-22)

~~**b.** For classifications with a regional recruiting area, the comparator market will be from public and private employers from the neighboring states and Idaho. For those with no private counterparts, the comparator market will be state governments, including, but not limited to, Arizona, Colorado, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.~~ (3-31-22)

~~**e.** Recruitment and retention issues will be used to determine the need for additional special market surveys.~~ (3-31-22)

~~**05. Compensation Schedule.** Significant changes to components of the compensation plan will be presented in a public meeting after notice.~~ (3-31-22)

071. MERIT INCREASE MATRIX.

~~Salary increases must be based on a merit increase matrix approved by the Division. Shift and geographic premium pay, bonuses, reinstatements, transfers, promotions, salary equity increases, and recruitment and retention awards are not subject to a matrix.~~ (3-31-22)

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 layoff, 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. (4-6-23)~~

~~**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)~~

07367. CALCULATION OF PAY.

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

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

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 appointments will be governed by Section 59-1603, Idaho Code. (4-6-23)~~

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 by review and assignment of the administrator and with notification to the administrator of the Division of Financial Management regarding potential fiscal impacts. These points are final unless appealed in accordance with Section 67-5316, Idaho Code. (4-6-23)~~

~~075. **BONUSES.**~~

~~01. **Performance Bonuses.** Up to a total of two thousand dollars (\$2,000) may be awarded each fiscal year, in recognition of exemplary performance. In extraordinary circumstances exceptions to the two thousand dollar (\$2,000) limit may be granted if approved in advance by the State Board of Examiners. Documentation of the exemplary performance and related bonus award must be provided to the employee and placed in the employee's agency personnel file. (Ref. Sections 59-1603(7) and 67-5309D(1), Idaho Code) (3-31-22)~~

~~02. **Employee Suggestion Award.** Appointing authorities may award up to a total of twenty five percent (25%) of the savings realized from an employee's idea to save taxpayer dollars, not to exceed two thousand dollars (\$2,000). (Ref. Section 67-5309D, Idaho Code) (3-31-22)~~

~~a. Suggestions need to increase productivity, conserve state resources, reduce state costs, or improve the morale of state employees. (3-31-22)~~

~~b. Suggestions that may deserve an award larger than two thousand dollars (\$2,000) and suggestions aimed at saving money outside the employee's state agency should be submitted through the employee's agency first, then submitted to the Division. Awards greater than two thousand dollars (\$2,000) must be approved in advance by the State Board of Examiners. (3-31-22)~~

~~c. Employee suggestion awards may be funded from the expense category (personnel, operating, or capital) from which the savings were realized. (3-31-22)~~

~~076~~~~68.~~ -- 079. (RESERVED)

~~080. **RECRUITMENT.**~~

~~The administrator will cooperate with the appointing authority of each agency in the operation of a coordinated recruiting program. (3-31-22)~~

~~081. **PURPOSE OF EXAMINATIONS.**~~

~~The administrator shall conduct examinations for the purpose of maintaining eligibility registers. (3-31-22)~~

~~082~~~~0.~~ **METHODS OF RECRUITMENT.**

~~For the purpose of establishing eligibility registers, there are three (3) methods of recruitment: open competitive, agency promotional, or statewide promotional. The scope of advertising and outreach for each approach will vary with agency preference, needs, and labor market strategies. (3-31-22)()~~

~~083. **MOVING EXPENSE REIMBURSEMENT.**~~

~~01. **Reimbursement Limitations.** The appointing authority may reimburse moving expenses for current or newly hired state employees in an amount less than or equal to ten percent (10%) of the employee's base salary or fifteen thousand dollars (\$15,000), whichever is less. Moving expense reimbursements must comply with the State Board of Examiners' State Moving Policy and Procedures that are in effect at the time the move takes place. (3-31-22)~~

~~02. **Exceptions to Reimbursement Limitations.** Exceptions to the expense reimbursement limits set forth in Rule 083.01 may be granted if approved in advance by the appointing authority. (3-31-22)~~

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) (4-6-23)~~

~~**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)~~

085. CONTENT OF ANNOUNCEMENTS.

~~Each announcement shall contain the title of the classification, characteristic duties and responsibilities, salary, minimum qualifications, nature of examination, qualifying score, closing date, equal opportunity and veterans' preference notice, and other pertinent information. (3-31-22)~~

086. APPLICATIONS.

01. Form. All applications must be filed in the form approved by the administrator. (3-31-22)

02. Filing of Applications. Applications are currently accepted by internet application system. (3-31-22)

03. Application by Military Personnel. An application will be accepted after the closing date of the announcement from a person who was serving in the armed forces, or undergoing service-connected hospitalization of no more than one (1) year following discharge, during any period in which the announcement was open. The application must be submitted within one hundred twenty (120) days of the applicant's separation from the armed forces or hospitalization and prior to the expiration of the register established as a result of an examination. (Ref. Sections 65-503 and 67-5309(f), Idaho Code) (3-31-22)

04. Application by Disabled Veterans. A disabled veteran may file an application at any time up until a selection for any classification for which the Division maintains a register as a source for future job openings or for which a register is about to be established, provided the veteran has not already been examined twice for the same classification, does not have current eligibility on that register, or is not serving in a competitive position in the same pay grade as the classification for which application is made. (Ref. Sections 65-503 and 67-5309(f), Idaho Code) (3-31-22)

05. Promotion of Entrance Probationary Employee. Any classified employee on entrance probation may file an application for a promotional opportunity but is ineligible to be certified to a department or statewide promotional hiring list until permanent status has been attained. (Ref. Rule 169.03-) (3-31-22)

06. Disclosure of Information for Hiring Purposes. By submitting an application, an individual is deemed to authorize disclosure of confidential information to state agencies for purposes of screening, testing, interviewing and hiring. (Ref. Section 74-106, Idaho Code). (3-31-22)

087. DENIAL OF APPLICATIONS.

01. Basis. The administrator may choose not to process an application if: (3-31-22)

a. The applicant will not meet the minimum qualifications specified in the announcement at the time set for appointment. (3-31-22)

b. The application was not received on or before the closing date for acceptance of applications. (3-31-22)

~~e. A background investigation or examination of an applicant discloses that the applicant committed an act which is cause for dismissal as provided in Rule 190. (3-31-22)~~

~~02. **Further Actions.** When any such finding under Rule 087.01 is made, the administrator may deny the application and may cancel the eligibility of the applicant if he or she has already attained a place on the eligibility register. If the applicant has already received appointment, the administrator may take appropriate action to have the employee removed from the position. (3-31-22)~~

~~088.—089. (RESERVED)~~

~~090. **EXAMINATIONS.**~~

~~Examinations shall be designed to evaluate factors pertinent to an individual's ability to perform competently the duties of the classification. The factors tested shall be job related and may include, but are not limited to, education and experience, knowledge, skills, abilities, aptitude, and physical ability. (3-31-22)~~

~~091. **PROHIBITED FACTORS.**~~

~~No part of any examination may include any question designed to reveal prohibited information including the political or religious affiliation or belief, national origin or race of any candidate. (3-31-22)~~

~~092. **PREPARATION OF EXAMINATIONS.**~~

~~01. **Content of Examinations.** Examinations may include any questions, tests or criteria designed to evaluate the suitability of applicants for job openings within a classification. So far as is practical, promotional examinations will be similar to corresponding open competitive examinations and the same standards will be applied in determining scores. (3-31-22)~~

~~02. **Job Analysis and Confidentiality.** Contents of each examination will be determined by the Division on the basis of appropriate professional techniques and procedures of job analysis and test development. No information concerning the specific content of the examination will be divulged to unauthorized personnel by the Division or other personnel who have access to the examinations. (3-31-22)~~

~~03. **Subject Matter Experts.** The Division may, at its discretion, collaborate with appointing authorities, incumbents, subject matter experts, or other qualified persons in the preparation of examinations. (3-31-22)~~

~~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. 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)

094. ELIMINATION TESTS.

Wherever it is stated in the announcement that an applicant must qualify in a series of different tests or satisfy other requirements to become eligible for appointment, and the applicant fails to meet such requirements, he or she shall not be permitted to take any further tests in the examination, and such tests if previously given need not be rated.

(3-31-22)

095. NOTICE AND RECORD OF RESULTS OF EXAMINATION.

All competitors shall be notified of their final scores electronically or by mail. The records of scores are held as official records for the life of the resulting eligibility registers.

(3-31-22)

096. REVIEW AND APPEAL.

01. Review of Examination Content and Scoring Material. Any competitor, or his/her representative authorized in writing, shall be permitted to inspect his/her own papers and records, except examination content and scoring material, upon application in person at the office of the Division in Boise during business hours. Alternative arrangements are available for competitors located outside of Boise. Review is limited to the time allowed for appeal of examination scores.

(3-31-22)

02. Appeal of Examination Score. Any competitor, by written request to the administrator, may appeal his or her examination score within thirty-five (35) calendar days after the notice was sent to such competitor. The administrator will review the test, may change the score, and may take any other action necessary to insure the integrity and quality of the testing process. When such review discloses error affecting the scores of other competitors, the review and adjustment includes their scores. The administrator will provide a written explanation to competitors whose scores are affected by the action taken.

(3-31-22)

097. ALTERNATIVE EXAMINATION PROCESS FOR PERSONS WITH DISABILITIES.

01. Conditions for Eligibility. Notwithstanding other provisions in these rules, an agency may appoint an individual directly into entrance or promotional probationary status in a classification if the Division of Vocational Rehabilitation, the Idaho Commission for the Blind, or the Industrial Commission certifies the following:

(3-31-22)

a. That the individual has a physical or mental impairment that substantially limits one (1) or more major life activities, as further defined under state or federal law;

(3-31-22)

b. That the individual meets the minimum qualifications of the classification and is qualified to perform the essential functions of a particular classified position with or without reasonable accommodation; and

(3-31-22)

c. That the individual lacks competitiveness in the examination process due to the disability. (Ref. Section 67-5309(e), Idaho Code.)

(3-31-22)

- 02. Concurrence Required.** The certification shall be made with the concurrence of the Division.

(3-31-22)

~~03. Probationary Period. The probationary period shall be the sole examination for individuals certified under this alternative examination process. (Ref. Rule 150). (3-31-22)~~

~~098.—100. (RESERVED)~~

~~101. ELIGIBILITY REGISTERS.~~

~~Eligibility registers are established by the Division to provide for fair and impartial selection for entrance into the state classified service and for promotion on the basis of competitive merit examinations. (3-31-22)~~

~~01. Reemployment Preference Registers. Registers with reemployment preference for a given classification will contain the names of classified employees of permanent status who have been laid off except limited service appointments. (Ref. Rules 140 and 144). (3-31-22)~~

~~02. Open Competitive Registers. Open competitive registers for a given classification will contain the names of applicants who successfully passed an open competitive examination for the classification. (3-31-22)~~

~~102. PLACEMENT ON REGISTER.~~

~~01. Score Order. Eligible candidates will be placed on the register for a given classification ranked in descending numerical order based on their final score on the examination for such classification. (3-31-22)~~

~~02. Veterans' Preference. Eligible veterans or surviving spouses entitled to five (5) point preference will be placed on the open competitive register in accordance with their final score on the examination augmented by preference points. (Ref. Rule 093.03 and Section 65-504, Idaho Code) (3-31-22)~~

~~03. Disabled Veterans' Preference. Preference will be awarded to disabled veterans as follows: (3-31-22)~~

~~a. Disabled veterans, Purple Heart recipients, spouses of any eligible disabled veterans who cannot qualify for any public employment because of a service-connected disability, and unmarried widows or widowers of disabled veterans entitled to ten (10) point preference will be placed on the open competitive register in order of their final score on the examination augmented by preference points. (Ref. Rule 093.03 and Sections 65-503 and 65-504, Idaho Code) (3-31-22)~~

~~b. Disabled veterans who have a current service-connected disability of thirty percent (30%) or more will be offered an interview when their final score on the hiring list places them within the top twenty five (25) qualified candidates. If more than ten (10) disabled veterans with a disability rating of thirty percent (30%) or more place in the top twenty five (25) qualified scores of a hiring list, at least ten (10) will be offered an interview. (Ref. Rule 093.03 and Section 65-504, Idaho Code) (3-31-22)~~

~~103. DURATION OF ELIGIBILITY REGISTERS.~~

~~01. Reemployment Preference Registers. Eligible candidates will remain thereon for twelve (12) months from effective date of layoff. (Ref. Rules 101.01 and 144) (3-31-22)~~

~~02. Other Registers. The duration of all other registers will be determined by the administrator based on the frequency of job openings and agency need. (3-31-22)~~

~~104. REMOVAL OF NAMES.~~

~~01. Reasons Specified. Names may be removed from any eligibility register by the administrator because of: (3-31-22)~~

~~a. Appointment of the eligible candidate from the register to the classification or appointment to a classification in a higher pay grade. (3-31-22)~~

~~b. A statement by the eligible candidate that he is not willing to accept appointment under conditions~~

~~previously specified. (3-31-22)~~

~~e. Physical, mental or other disability where it has been demonstrated that the disability will prevent the eligible candidate from satisfactorily performing the essential functions of the position with reasonable accommodation for the disability. (3-31-22)~~

~~d. Failure of an eligible candidate to respond within seven (7) calendar days to documented good faith inquiry concerning availability for employment. (3-31-22)~~

~~e. The eligible candidate's conduct renders him unsuitable for the position or classification for which he applied. (3-31-22)~~

~~f. Written rejection of the eligible candidate for good cause by an appointing authority as approved by the administrator. (3-31-22)~~

~~g. Conviction of an eligible candidate of any felony. (3-31-22)~~

~~h. False statements of material facts given in the eligible candidate's application for employment or any subsequent examinations or interviews. (3-31-22)~~

~~i. Dismissal of an eligible candidate from state service. (3-31-22)~~

~~j. Paying, promising to pay, or giving any money, thing, service or consideration to any person, directly or indirectly, for any service or influence given, used, or promised towards securing appointment. (3-31-22)~~

~~k. Directly or indirectly obtaining information regarding examinations to which, as an applicant, he is not entitled. (3-31-22)~~

~~l. Refusing an interview or refusing to accept a position under the conditions set forth in the recruitment announcement. (3-31-22)~~

~~m. Having been certified for a probationary appointment for three (3) separate positions in the same classification in the same agency and not been accepted for employment for good cause. (3-31-22)~~

~~n. Declining three (3) separate offers of employment or reemployment without good cause. (3-31-22)~~

~~**02. Limitations and Duration of Removal.** The administrator will determine if the candidate will be removed from all registers, registers for a particular classification, or registers for specified agencies. All removals will be for one (1) year unless otherwise authorized by the administrator. (3-31-22)~~

~~**105. TEMPORARY UNAVAILABILITY NOT REASON FOR REMOVAL.**~~

~~Temporary unavailability of an eligible applicant, not to exceed fifteen (15) calendar days, in order that the employee may give his or her employer advance notice of separation is not proper cause for his or her removal from the register. (3-31-22)~~

~~**106. RESTORATION OF NAMES TO ELIGIBILITY REGISTERS.**~~

~~Upon receiving appropriate evidence, the administrator shall restore the name of an eligible candidate to any eligibility register from which it has been removed for causes enumerated in Rule 104. (3-31-22)~~

~~**107. REVISION OF CLASSIFICATION SPECIFICATIONS.**~~

~~Whenever a classification specification is revised, the names of persons on the existing eligibility register who meet the minimum qualifications for the revised classification shall be placed in score order on the eligibility register for the revised classification. (3-31-22)~~

~~**108. (RESERVED)**~~

~~**109. CERTIFICATION AND SELECTION.**~~

~~Whenever a vacancy in a classified position is to be filled by a competitive recruitment process, the appointing authority shall make selection from a hiring list created from eligibility registers certified by the Division. Non-promotional internal or external transfers or reinstatements do not require registers certified by the Division.~~

~~(3-31-22)~~

~~**110. NUMBER OF NAMES ON REGISTER.**~~

~~The Division will certify a hiring list from the eligibility register, in the order of their scores, a sufficient number of names so that the appointing authority is able to select for appointment from among twenty five (25) eligible candidates for each position to be filled. If appointments are to be made to more than one (1) position, one (1) additional name shall be added for each vacancy so that the appointing authority has twenty five (25) names to consider for each vacancy. The names of all eligible candidates with scores identical to the twenty fifth ranking eligible candidate on the register shall be provided to appointing authorities for selection purposes.~~

~~(3-31-22)~~

~~**11081. -- 118. (RESERVED)**~~

~~**119. APPOINTMENTS, REINSTATEMENTS, TRANSFERS, AND RESIGNATIONS.**~~

~~**01. Reemployment Preference Register.** New appointments to a classification within an agency are not permissible if there is an agency reemployment preference register (Ref. Rule 101.01) for that classification with names of eligibles who are willing to accept employment.~~

~~(3-31-22)~~

~~**02. Probationary Period Required.** All appointments to positions in the state classified service whenever adequate eligibility registers exist for the classification are probationary appointments except as otherwise provided in Rules 040 and 150.~~

~~(3-31-22)~~

~~**12019. 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.~~

~~()~~

~~**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.e.~~

~~(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 in the employee's personnel file.~~

~~()~~

~~**1240. SEASONAL APPOINTMENT.**~~

~~**01. Purpose.** An appointing authority may make a seasonal appointment from a register for work that occurs intermittently during the year. (Ref. Section 67-5302(31), Idaho Code).~~

~~(3-31-22)~~

~~**021. Employee Rights.** Employees appointed under a seasonal appointment will have all obligations, rights, and privileges of any classified employee except those accorded by Rules 140 through 147, relating to reduction in force.~~

~~()~~

~~**03. Separation.** Employees appointed under a seasonal appointment may be separated from the seasonal appointment and returned as frequently as intermittent workload dictates.~~

~~(3-31-22)~~

~~**04. Duration of Appointment.** If an employee has not been called to work for six thousand two hundred forty (6,240) hours (three (3) years), the seasonal appointment expires; rehire of the employee must be from a register.~~

~~(3-31-22)~~

~~122~~**1. TEMPORARY APPOINTMENTS (NON-CLASSIFIED).**

01. Hours Limitation. Temporary appointments are limited to one thousand three hundred eighty-five (1,385) hours of work in any twelve (12) month period for any one agency. Both calculations begin on the date of the original temporary appointment ~~(Ref. Section 67-5302(33), Idaho Code).~~ (3-31-22)()

02. Transition to Classified Service. Temporary employees who have served at least one thousand forty (1,040) hours of continuous service, may go from temporary status to classified entrance probation status in that same position without further ~~examination application~~ if the announcement for the temporary position from which the certified register was created indicates that the temporary position has the potential of becoming a permanent classified position. The classified position must be in the same classification and at the same location as announced. (3-31-22)()

~~123~~**2. (RESERVED)**

~~124~~**3. REINSTATEMENTS.**

01. Eligibility. A 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).~~ (4-6-23)()

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)~~

~~**eb.** The current or former employee must meet the current minimum qualifications of the classification to which reinstatement is desired. ()~~

~~**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)~~

~~**032. Examination.** A current or former employee may be required to pass an examination for the classification to which reinstatement is desired. ()~~

~~**043. 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~~**4. TRANSFERS.**

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

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. ()

~~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.~~ An employee transferring between classifications may be required to pass an examination for the classification to which transfer is desired. (4-6-23)

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

1265. RESIGNATION.

~~01. Notice.~~ A classified employee may resign at any time. A resignation is effective at the time designated by the employee, without need for written or advance notice, or acceptance of the resignation by the appointing authority. ()

~~02. Rescission and Reinstatement.~~ Once an employee has submitted a resignation, reinstatement is in the discretion of the appointing authority as ~~provided in Rule 124.~~ The appointing authority may but is not required to allow an employee to rescind a resignation prior to its effective date. (3-31-22)()

~~03. Resignation in Lieu of Dismissal.~~ An employee may resign in lieu of being dismissed for cause. ()

1276. -- 128. (RESERVED)

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: ()

~~a.~~ The incumbent of the position in the higher classification is on authorized leave of absence; or ()

~~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. ()

~~03. 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)

130. LIMITATION ON LENGTH OF APPOINTMENT.

Acting appointments are limited to the period of time necessary to fill the vacancy pursuant to procedures prescribed in these rules but in no case can continue beyond one thousand forty (1,040) hours of credited state service unless specifically extended by the administrator. ()

131. SALARY.

For any credited state service which an employee serves in a classification in an acting capacity, he or she shall receive the salary for the classification as though he or she had actually been promoted. ()

132. EXPIRATION OF APPOINTMENT.

01. Return of Incumbent. When the incumbent of the classification returns from leave of absence, or the vacant position is filled, the acting appointment expires. The acting appointee is returned to the class, the pay grade and rate held immediately preceding the acting appointment. ()

02. Failure of Incumbent to Return. Should the employee on leave of absence separate from state service, the employee serving in the acting appointment may continue to serve in that capacity until the vacancy has been filled but in no case exceed the time limits prescribed in Rule 130. ()

133. -- 139. (RESERVED)

140. REDUCTION IN FORCE.

01. Conditions for Layoff. An appointing authority may lay off an employee whenever necessary due to: shortage of funds or work; reorganization; the end of a limited service appointment; employee's failure to complete interagency promotional probation when demotion options are not available; or abolishment of one (1) or more positions ~~(ref. Rule 066).~~ (3-31-22)()

~~**02. Layoff Decisions.** Layoff decisions must not be based on race, color, national origin, gender, age, religion, disability, or political affiliation. Layoffs must be accomplished in a systematic manner with equity for the rights of classified employees and not do away with an employee's right to problem solving, or appeal if the layoff is in fact a dismissal.~~ (3-31-22)

~~**03. Assessment for Adverse Impact.** In planning and conducting a reduction in force, the appointing authority must consider the effect layoff units and positions to be abolished may have on the composition of the agency work force. If layoff units or exclusions are established, adverse impact of protected classes must be assessed. The appointing authority must administer the reduction in force consistent with state and federal laws, and rules and guidelines governing adverse impact.~~ (3-31-22)

042. Layoff by Position. Reduction in force must be by classification of position. ()

a. Reduction in force may be limited to or specifically exclude employees appointed under selective certification ~~(Ref. Rule 112)~~ for bona fide occupational qualifications, or appointed to a classification with minimum qualification specialties. Inclusions or exclusions must include or exclude all incumbents of the classification appointed under similar selective certification, or the same option or minimum qualification specialty and must be approved in advance by the administrator. (3-31-22)()

b. An appointing authority may petition the administrator to exclude an individual from a reduction in force whose retention may be required to meet agency mission critical needs. Requests must provide a documented rationale with exclusions approved in advance by the administrator. ()

c. ~~Limited service appointments are defined by the project, program, or function for which the appointments were made.~~ When a limited service project is completed or funding concluded, the limited service appointee is separated from state service as a layoff. However, limited service appointees have no reemployment preference and will not displace other regular permanent or limited services staff via voluntary demotion in lieu of layoff. (3-31-22)()

053. Layoff Unit. Reduction in force must be agency-wide or by organizational unit designated for

layoff purposes. Layoff units are geographic, programmatic, or other identified subdivisions of an agency designated for layoff purposes by the appointing authority. They must be approved by the administrator before the effective date of the layoff. Organizational layoff unit designations must be renewed with a change in appointing authority or administrator. ()

064. Reduction of Hours Worked. An involuntary reduction in the number of hours worked for a selected position constitutes a layoff unless there is an equal reduction of hours worked for all positions in the same classification in the agency or approved layoff unit for a limited period of time, such as a furlough. ()

075. Downward Reclass. A material change in duties of one (1) or more positions resulting in an employee's reclassification to a classification allocated to one (1) pay grade lower does not constitute a layoff. ~~(Ref. Rule 067).~~ More than one (1) pay grade change downward is considered a layoff, unless the change of duties is disciplinary. ~~(Ref. Section 190).~~ (3-31-22)()

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

()

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. 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.~~ (4-6-23)

~~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. ()

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. ()

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. ()

142. CREDITED STATE SERVICE.
Eligible credited state service for purposes of Rule 140 is defined as follows: ()

01. Service Prior to State Personnel System. All credited state service prior to the establishment of classified service, Title 67, Chapter 53, Idaho Code. ~~(Ref. Sections 67-5332 and 59-1604, Idaho Code, for definitions of credited state service)~~ (3-31-22)()

~~**02. Classified Service.** All classified credited state service since the establishment of classified service.~~ (3-31-22)

~~**03. Nonclassified Service.** All credited state service in a position exempt from classified service if that position is subsequently transferred to classified service pursuant to Rule 040.~~ (3-31-22)

143. REDUCTION IN FORCE DETERMINATION AND NOTIFICATION.

01. Identification of Classifications. The appointing authority will identify the classification of positions to be reduced or eliminated. ()

02. Calculation of Retention Points. Retention points will be calculated for all employees assigned to the classification of position including those serving in underfill positions. Retention points need not be calculated where layoff involves a single-incumbent class. ()

03. Order of Reduction in Force. The order of reduction in force will be by type of appointment held by the employee in the affected classification as follows: first to be laid off are the entrance probationary appointees, and then the permanent appointees including those serving a voluntary probation. Employees will be placed on the layoff list beginning with the employee with the highest number of retention points. Employee layoffs will be made from the layoff list in inverse order. When two (2) or more employees have the same combined total of retention points, retention will be determined in the following sequence: ~~(Ref. Rule 150.02.e.)~~ (3-31-22)()

a. The employee with the highest total retention points for the past thirty-six (36) months. ()

b. Random selection. ()

04. Notification to Affected Employees. Each employee affected will be notified in writing of layoff and the rationale for the decision at least fifteen (15) calendar days prior to the effective date. Notification will include a copy of the agency layoff procedure and a copy of the computation of retention points when required ~~(Ref. Rule 143.02).~~ (3-31-22)()

05. Notification to Administrator. The appointing authority must give written notice of layoff to the administrator at least fifteen (15) calendar days prior to its effective date and must provide a list of persons affected by the layoff with their retention point calculations and must indicate which employees will be laid off. ()

144. PLACEMENT ON REGISTER WITH REEMPLOYMENT PREFERENCE.

A permanent employee laid off from their job or who chooses a voluntary demotion in lieu of a layoff, under these rules shall be placed on their classification's register with reemployment preference ~~in unranked order.~~ Such placement will be for one (1) year from the effective date of demotion or layoff, or until the employee or former employee declines a total of three (3) separate job offers without good cause, whichever comes first. ~~(Rule 104.01.n.)~~ An employee or former employee may request their name be removed at any time. (3-31-22)()

145. USE OF REGISTERS WITH REEMPLOYMENT PREFERENCE.

01. Priority for Reemployment by Agency that Conducted the Layoff. ()

a. The employee who has been laid off will be offered reemployment to a position in the classification

from which laid off, before any person outside that agency may be promoted to, transferred to, reinstated or appointed to that classification by an appointing authority of that agency. ~~Appointing authorities may reassign or transfer individuals who are in the same classification within their agency but may not demote, promote, reclassify, or make acting appointments to that classification. If that agency determines a need to fill that classification, the employee who was laid off has first priority for that position. (Ref. Rules 125.04 and 125.08) Extenuating circumstances due to short term budget, workload, location, or other complexities may be used by the appointing authority to request a temporary waiver of this rule by the administrator.~~ (3-31-22)()

b. When attempting to fill vacancies for a classification where a lay off occurred, the agency will provide an opportunity to interview and will make their hiring selection from the individuals their agency laid off from the classification, including those separated from state service under Rule 241.02 and those that took a voluntary demotion in lieu of layoff. ()

c. Individuals being returned to the classification from which they were laid off will be reinstated with the same salary, permanent status and their sick leave balance restored. ~~If the pay minimum has increased, see Rule 072-03.~~ (3-31-22)()

02. Consideration for Hire by Other Agencies. For promotional opportunities, ~~internal agency candidates are normally considered before outside recruitment occurs, including other agencies' laid off candidates. However,~~ individuals who have been laid off must be offered the opportunity to interview ~~before other agencies consider candidates from statewide promotional or open-competitive recruitments.~~ (3-31-22)()

03. Employment by Other Agency. Individuals may be reappointed or reinstated if eligible. The salary of an employee re-hired after a layoff is negotiable between the employee and new appointing authority in the current pay grade for the classification in which the employee is appointed. ()

04. Return to Register. If an individual finds another agency's position unsatisfactory or does not satisfactorily complete a voluntary probation period, he may be placed back on a register for the remainder of their twelve (12) month time frame. Individuals appointed to a position, other than the classification from which laid off, will remain on preference register status for the remainder of the twelve-month (12) period if otherwise eligible. ()

146. (RESERVED)

147. VOLUNTARY DEMOTION IN LIEU OF LAYOFF.

Within their layoff unit, an employee with permanent status may choose to accept a voluntary demotion rather than be laid off. Demotion options are limited to a classification ~~or if deleted, its successor,~~ in which the employee held permanent status in the agency. Such demotion will not be permitted if it causes the layoff of an employee with greater retention points. (3-31-22)()

01. Eligibility. ()

a. Qualified. Employee must meet the classification's current minimum qualifications and any minimum qualification specialties. ()

b. Exclusion. Limited service appointees are not eligible to take any voluntary demotion that would result in the displacement of other employees. However, voluntary demotions to a vacant position are allowed with the approval of the appointing authority. ()

02. Acceptance. To accept a voluntary demotion rather than a layoff, the employee must notify the appointing authority in writing of their decision no later than three (3) working days after written notification of the layoff and opportunity to demote to a specific position. ()

148. -- 149. (RESERVED)

150. PROBATIONARY PERIODS.

01. Probationary Period Required. ~~Except as provided in Rule 040, e~~ 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: ()

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. ()

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. ()

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)~~ (4-6-23)()

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)()

151. SATISFACTORY SERVICE.

When a probationary employee has satisfactorily served the probationary period hours, the employee will become permanent status. ~~The appointing authority shall no later than thirty (30) calendar days after the expiration of the probationary period provide the employee and the Division a performance evaluation.~~ Certification to permanent status is effective one thousand forty (1,040) hours of credited state service after appointment, except that it is effective two thousand eighty (2,080) hours of credited state service after appointment for peace officer classifications unless either period has been extended ~~pursuant to Rule 150.03.~~ ~~(Ref. Section 67-5309(j), Idaho Code, and Rule 210.04)~~ (3-31-22)()

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. ()

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 at least fifteen (15) calendar days prior to the effective date of termination, unless there are extenuating circumstances. ()

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. ()

02. During Promotional Probation. If an employee on promotional probation does not meet performance expectations: ()

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. ()

b. If no position is available for the voluntary demotion option, the employee may be laid off ~~(Ref. Rules 145 and 147)~~ and may request their name be placed on a register for the classification where they last held permanent status. (4-6-23)()

c. When reinstatement occurs in the classification they promoted from, the employee's name is removed from reemployment required preference status. ()

154. FAILURE TO PROVIDE PERFORMANCE EVALUATION.

If the appointing authority fails to provide a performance evaluation ~~as required in Rule 151~~, the employee shall be considered to have satisfactorily completed the probationary period and be certified to permanent status as provided ~~by Rule 151~~, unless the probationary period has been extended by the administrator. ~~(Ref. Rule 150.03)~~ (3-31-22)()

155. -- 158. (RESERVED)

159. STATUS AND TENURE.

01. Probationary Promotions. Employees serving a promotional probationary period have continued permanent status in the classification from which promoted until they are certified as having satisfactorily completed the promotional probationary period in the classification to which promoted. ~~(Ref. Rules 151, 152, and 153)~~ (3-31-22)()

~~**02. Tenure of Employment.** All employment in the state classified service is without definite term except where the term may be specified by law, or under conditions of a limited service appointment. (Ref. Rule 120)~~ (3-31-22)

160. -- 168. (RESERVED)

169. PROMOTIONS.

~~01. Use of Promotional Registers. (3-31-22)~~

~~a. Preference for Promotion. Whenever practical, a vacancy in a classified position must be filled by the promotion of an employee in the agency in which the vacancy occurs. (Ref. Section 67-5309(g), Idaho Code) (3-31-22)~~

~~b. Exception. An appointing authority may request that a position be filled from a statewide promotional register (Ref. Rule 101.03) or an open competitive register (Ref. Rule 101.04) whenever he determines that such an appointment will best serve the interests of the agency. (3-31-22)~~

~~c. Agency Registers with Reemployment Preference Status. Promotions to a classification are not permissible as long as there is an agency register with reemployment preference status (Ref. Rule 101.01) for the classification with names of eligible candidates who are willing to accept reemployment. (3-31-22)~~

021. Interagency Promotions. All interagency promotions must be made using statewide promotional registers (Ref. Rule 101.03) ()

032. Eligibility for Promotion. Promotional appointees must have permanent status (Ref. Rule 159) and meet the minimum qualifications of the promotional classification. ()

043. Promotion, In-Grade. To reflect unique agency organization design, an agency may choose to request an internal competitive process to recognize the advancement of an employee with permanent status from a position occupied in one classification to a position in another classification having greater points or a unique specialty area, but within the same pay grade. With the approval of the administrator, an in-grade promotion will be treated in all regards as a promotion. ()

170. -- 178. (RESERVED)

179. DEMOTIONS.

Demotions are reductions of an employee from a position which the employee occupies in one classification to a position in another classification in a lower pay grade. Demotions authorized under these rules apply to both probationary and permanent status employees who meet the minimum qualifications of the classification to which demoted. ()

180. (RESERVED)

~~181. NONDISCIPLINARY DEMOTION OPTIONAL.~~

~~An appointing authority may allow a voluntary demotion when requested or accepted by an employee and approved by the appointing authority. (3-31-22)~~

~~182. DISCIPLINARY DEMOTION.~~

~~An appointing authority may make a disciplinary demotion for causes enumerated in Rule 190 that are not sufficiently severe to warrant dismissal. (3-31-22)~~

1831. -- 189. (RESERVED)

190. DISCIPLINARY ACTIONS.

01. Cause for Disciplinary Actions or Separation From State Service. Dismissal, suspension, demotion, or the reduction in pay, of a classified employee, may occur for any of the following causes during the employee's employment: ()

a. Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes, or rules of the agency or the Division and Idaho Personnel Commission. ()

b. Inefficiency, incompetency, or negligence in performing duties, or job performance that fails to meet established performance standards. ()

- c. Physical or mental incapability for performing assigned duties, if a reasonable accommodation cannot be made for the disabling condition. ()
- d. Refusal to accept a reasonable and proper assignment from an authorized supervisor. ()
- e. Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the agency. ()
- f. Intoxication or being under the influence of alcohol, or the misuse of medications or controlled substances, while on duty. ()
- g. Careless, negligent, or improper use or unlawful conversion of state property, equipment, or funds. ()
- h. Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage. ()
- i. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude. ()
- j. Acceptance of gifts in exchange for influence or favors given in the employee's official capacity. ()
- k. Habitual pattern of failure to report for duty at the assigned time and place. ()
- l. Habitual improper use of sick leave. ()
- m. Unauthorized disclosure of confidential information from official records. ()
- n. ~~Unapproved~~ ~~A~~ absence without leave. (3-31-22)()
- o. Misstatement or deception in application for employment. ()
- p. Failure to obtain or maintain a current license or certificate lawfully required as a condition in performance of duties. ()
- q. Prohibited participation in political activities. ~~(Ref. Section 67-5311, Idaho Code)~~ (3-31-22)()

02. Suspension for Investigation. An appointing authority may place an employee on administrative leave for investigation of disciplinary causes enumerated in Rule 190.01. Each suspension for investigation will be superseded by reinstatement to duty, dismissal, disciplinary demotion, or suspension within thirty (30) calendar days of the suspension for investigation or within an extension of an additional thirty (30) calendar days approved by the administrator. Further extensions may be granted with the approval of the Administrator. ()

03. Disciplinary Suspension. An appointing authority may suspend without pay an employee for discipline for causes enumerated above. Disciplinary suspension of an employee with permanent status is subject to appeal by the employee to the Commission. ()

04. Suspension on Felony Charges. An appointing authority may suspend without pay an employee upon the issuance of a complaint, an information or indictment for felony charges. Such suspensions may remain in effect during the time such charges are pending. Full reinstatement of all benefits and salary that the employee would have otherwise been entitled must be provided by the appointing authority to the employee upon a subsequent finding that charges or information were without grounds or the employee was not found guilty. For the purpose of this rule, a judgment withheld under Rule 33(d) of the Idaho Rules of Criminal Procedure is a conviction. ()

05. Notice to Administrator. Whenever an appointing authority considers it necessary to take

disciplinary action against an employee, he must notify the employee and the administrator concurrently in writing; and set forth the specific rules violated and the reasons for the action. Suspensions with pay for investigation (~~Ref. Rule 190.02~~) may be made without prior notice to the employee; in this case, the appointing authority must notify the administrator as soon as practical. (3-31-22)()

191. -- 199. (RESERVED)

200. PROBLEM-SOLVING AND DUE PROCESS PROCEDURES.

01. Overview of Procedures. ()

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. ()

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. ()

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. ()

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. ()

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. ()

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 five (5) working days after the employee has received notice, unless 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 five (5) working days thereafter, excluding days the appointing authority, or designee, is out of the office, 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. (4-6-23)()

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. ()

201. APPEAL PROCEDURE.

01. Idaho Rules of Administrative Procedure of the Attorney General. In addition to the following rules on appeals and petitions for review, the "Idaho Rules of Administrative Procedure of the Attorney General" on contested cases, IDAPA 04.11.01.000 et seq., apply with the following exceptions, which are inconsistent with the Commission's statute or practice: IDAPA 04.11.01.055, 202, 240, 250, 270.01, 280, 300, 302, 651, 720, 730, 740, 790, 791, 821.02, and 860. Petitions for rulemaking and declaratory rulings are addressed in Rules 270 and 271. ()

02. Filing of Appeal and Appearances. Every appeal filed with the Commission must be written and state the decision that is being appealed and the action requested of the Commission. The Commission must serve a copy of the appeal on the respondent and upon the legal counsel for the Commission. Notices of appearance and notices of substitution of counsel need not be filed by deputy attorneys general or members of law firms already representing a party in an appeal or petition for review. ()

03. Time for Appeal. An appeal from a decision of an appointing authority is deemed to be timely filed if received at the office of the Commission within thirty-five (35) calendar days after completion of the agency due process procedure. Personal delivery or deposit in the United States mail, postage prepaid, of a written notification to the affected employee of the appointing authority's decision constitutes completion of the agency due process procedure. An appeal of a decision or action of the administrator or staff must be filed at the office of the Commission within thirty-five (35) calendar days of personal delivery of notice of the decision or action, deposit of the notice in the United States mail, postage prepaid, or deposit of the notice in Statehouse mail. ()

04. Non-Jurisdictional Appeals. Appeals which are non-jurisdictional may be dismissed without motion by the hearing officer, the chair of the Commission, or his designee. If a hearing officer orders such a dismissal, the dismissal may be appealed to the Commission as a petition for review pursuant to Rule 202.01. If the chair of the Commission orders such a dismissal, it constitutes the final order of the Commission and may be appealed pursuant to Sections 67-5317(3) and 67-5318, Idaho Code. ()

05. Setting of Hearing. Within fifteen (15) days after receiving the appeal from the Commission, the

hearing officer must consult with the parties to set a mutually agreeable date for hearing. The hearing officer may thereafter postpone or continue the hearing for good cause. ()

06. Filing of Documents. Once an appeal is referred to the hearing officer, all documents relating thereto must be filed directly with the hearing officer during the pendency of the appeal with copies provided simultaneously to opposing counsel and unrepresented parties. ()

07. Burden of Proof. In disciplinary actions, the appointing authority has the burden of proving cause for the discipline by a preponderance of the evidence. In all other actions, the appellant has the burden of proof by a preponderance of the evidence. ()

08. Open Hearing. Every hearing is public, unless the hearing officer closes the hearing for good cause. Individual parties may represent themselves (pro se) or be represented by an attorney. ()

09. Protective Orders. The hearing officer may issue protective orders limiting access to information obtained in the course of a hearing. ()

10. Decision of Hearing Officer. The hearing officer must issue a decision in the form of a preliminary order explaining the right to file a petition for review under Section 67-5317, Idaho Code. The preliminary order, consisting of such findings of fact, conclusions of law and orders as are necessary, together with the record of the proceedings must be filed at the office of the Commission with a copy sent or delivered to the parties. A motion for reconsideration under Section 67-5243, Idaho Code, is not permitted. ()

11. Procedure for Award of Attorney Fees and Costs. As part of his preliminary order, the hearing officer must make findings as to the entitlement to attorney fees and costs, if any, pursuant to Section 12-117, Idaho Code. If the hearing officer finds a prevailing party is entitled to statutory attorney fees and costs, the prevailing party must file a memorandum of costs, including a supporting affidavit stating the basis and method of computation of the amount claimed. The memorandum must be filed with the hearing officer not later than ten (10) working days after receipt of the hearing officer's decision or no attorney fees and costs may be awarded. Objections to the award of attorney fees and costs must be filed not later than ten (10) working days after receipt of the memorandum of costs and supporting affidavit. The hearing officer must conduct a hearing on the award of attorney fees and costs within ten (10) days of receiving any objections to the award. If no objections are timely filed with the hearing officer, or if the parties stipulate to have the matter decided on the briefs, no hearing is required. The hearing officer determines the amount of the award and must make written findings as to the basis and reasons for the award within ten (10) days after the hearing on the award of attorney fees and costs. If no hearing is required, the hearing officer must issue his decision on the award of attorney fees and costs no later than thirty (30) days after receipt of the prevailing party's memorandum of costs and supporting affidavit. ()

12. Factors Considered in Award of Attorney Fees and Costs. The following factors are considered in the determination of an award of attorney fees and costs: the time and labor required; ()

- b. The experience and ability of the attorney; ()
- c. The prevailing charges for like work; ()
- d. The amount involved and the results obtained; ()
- e. Awards in similar cases; and ()
- f. Any other factor that appears pertinent to the award. ()

202. PETITION FOR REVIEW PROCEDURE.

01. Filing of Petition for Review. A petition for review shall be filed at the office of the Commission within thirty-five (35) days of the hearing officer's decision issued pursuant to Rule 201.10. The petition shall be in writing and specifically cite the alleged errors of fact or law made by the hearing officer. ()

02. Stay of Hearing Officer's Decision. Upon the filing of the petition for review, the jurisdiction of the hearing officer in the matter is ended except for resolving post-hearing motions and awarding attorney fees and costs. The hearing officer's decision and any orders entered pursuant to Rules 201.10 and 201.11 will be automatically stayed. ()

03. Nature of Hearing. The hearing of the Commission on a petition for review will be limited to oral arguments regarding issues of law and fact as may be found in the record established before the hearing officer and any post-hearing orders. Written arguments or briefs and motions regarding the petition for review will be allowed under such terms as the Commission may direct in its notice of hearing, which will be issued at least twenty-eight (28) days prior to the date set for hearing. ()

04. Transcript. If the petition for review involves questions of fact, the appellant shall provide a full transcript of the proceedings before the hearing officer for the Commission to review. The respondent may pay for an additional copy of the transcript for respondent's own use. ()

05. Requests for Postponement and Other Motions. ()

a. Except in emergencies, a request for postponement shall be filed in writing by a party or representative not later than seven (7) days before the scheduled hearing. The Chair of the Commission, or his or her designee, may determine whether good cause is shown for the postponement and grant or deny the request on behalf of the Commission. ()

b. Motions to dismiss for lack of jurisdiction shall be decided by the Commission. All other motions shall be considered by the Chair of the Commission or at the Chair's discretion may be referred to one (1) Commissioner, whose decision on the motion may be communicated to the parties by letter or other informal means, by the Chair or by counsel to the Commission. ()

06. Decision on Petition for Review. The decision of the Commission shall include a statement of appeal rights under Section 67-5318, Idaho Code. Motion for reconsideration of Commission decisions pursuant to Section 67-5246, Idaho Code are not permitted. The Commission shall file the original copy of its decision with the record of the proceedings and mail copies to the parties promptly. ()

07. Record of the Proceedings. A verbatim record of the proceedings at hearings before the Commission shall be maintained either by electrical devices or by stenographic means, as the Commission may direct, but if any party to the action requests a stenographic record of the proceedings, the record shall be done stenographically. The requesting party shall pay the costs of reporting the proceedings. ()

08. Attorney Fees and Costs in a Petition for Review. In its decision on petition for review, the Commission shall make findings as to the entitlement to attorney fees and costs, if any, pursuant to Section 12-117, Idaho Code. If the Commission finds the prevailing party, if any, is entitled to attorney fees and costs, the prevailing party shall file a request for attorney fees and costs, with accompanying memorandum and affidavit in support of the request described in Rule 201.11, with the Commission not later than ten (10) working days after receipt of the Commission's decision. Objections to the award of attorney fees and costs shall be filed not later than ten (10) working days after receipt of the request for attorney fees and costs. The Commission shall determine the amount of the award, if any, taking into account the factors defined in Rule 201.12. ()

09. Protective Orders. The Commission may issue protective orders limiting access to information in the record. ()

~~**203. REFERRALS FROM FEDERAL AGENCIES ON DISCRIMINATION COMPLAINTS.** When the Division receives a complaint from a federal agency alleging violation of employment laws, the administrator must take prompt action to investigate. If the complaint is agency specific, the appointing authority will take necessary actions to ensure the investigation is thorough, staff are fully cooperative, and submit findings and any corrective action plan to the administrator and other proper authorities. (3-31-22)~~

~~**204**~~ -- 209. (RESERVED)

210. PERFORMANCE EVALUATIONS.

~~01. **Performance Evaluations.** Each agency shall use the statewide online performance evaluation system; however, another system may be used, provided it meets the basic objectives of the state's online performance evaluation system as approved in advance by the administrator. Agency records and supporting documentation are subject to review by the Division and the employee's overall performance rating must be transmitted to the administrator. (3-31-22)()~~

~~02. **Approval of Form.** The Division will make available a standard format for purpose of the statewide online performance evaluation system. An appointing authority may utilize another form provided it meets the basic performance criteria and ratings and is approved in advance by the administrator. (3-31-22)~~

~~03. **Purpose.** The purpose of performance evaluation is to provide an objective evaluation by the immediate supervisor of an employee's performance in comparison with established expectations for the position; and to identify an employee's strengths and weaknesses and where improvement is necessary. All performance evaluations must be discussed with affected employee who will be allowed opportunity to submit written comments regarding the evaluation contents. (3-31-22)~~

~~04. **Use of Evaluations.** Performance evaluations should be used in connection with promotions, transfers, demotions, retentions, separations, and reassignments (Ref. Section 67-5309(h), Idaho Code); and used as the affirmative certification for merit increases, bonuses, and salary equity increases (Ref. Section 67-5309B, Idaho Code); and for certifying a probationary employee to permanent status (Ref. Rule 151). Other uses of performance evaluations are optional with the appointing authority. (3-31-22)()~~

~~05. **Evaluation Schedule.** All classified employees must be evaluated for their performance during probationary periods for appointments and promotions and for every two thousand eighty (2,080) hours of credited state service thereafter (generally, an annual basis). (Ref. Sections 67-5309(h) and (j), 67-5309B(6), Idaho Code.) Part-time employees must be evaluated on an annual basis. (3-31-22)()~~

~~06. **Retention of Evaluation.** A copy of the performance evaluation must be retained in agency records with a copy furnished to the employee. (3-31-22)~~

~~07. **Supervisors' Requirements.** Supervisors are required to manage performance on a consistent basis including completion of performance evaluations on all employees under their direct supervision. (Ref. Section 67-5309B(6), Idaho Code) (3-31-22)~~

211. -- 219. (RESERVED)

220. RECORDS:

~~01. **Employee Service Records.** (3-31-22)~~

~~a. For each employee in classified service, the Division maintains an electronic service record which must include all personnel transactions pertinent to the employee's employment history. (Ref. Section 67-5309(e), Idaho Code) (3-31-22)~~

~~b. Any employee may at all reasonable times during business hours review his service record maintained in the Division or maintained in any agency. Except for material used to screen and test for employment, all information maintained in an employee's service record must be made available to the employee or designated representative upon request. File contents may be corrected if found in error according to the procedure contained in Title 74, Chapter 1, Idaho Code. (3-31-22)~~

~~02. **Administrative Records.** The administrator must permanently maintain a record of the proceedings of the Commission and a record of all hearings of appeals. (3-31-22)~~

~~03. **Employee Personnel Action Documents.** The appointing authority must furnish each employee with notice of every personnel action affecting the employee's status, pay, tenure, or other terms and conditions of~~

employment, including a copy of their performance evaluations. (3-31-22)

04. Transfers, Reemployment and Promotions Between Agencies. (3-31-22)

a. When an employee seeks a transfer, reemployment, or promotion between agencies, the appointing authority of the hiring agency, or designee, is entitled to examine the employee's service record and performance information before the hiring decision is made. (Ref. Section 67-5309(o), Idaho Code) (3-31-22)

b. All performance evaluation documents must be provided by the former agency and forwarded to the new agency when an interagency promotion, demotion, or transfer occurs. (3-31-22)

~~221.~~ ~~229.~~ (RESERVED)

230. VACATION LEAVE.

01. Eligibility. All classified employees, regardless of status or whether full-time or part-time, earn vacation leave and are eligible to take and be paid for unused vacation leave in accordance with Sections 67-5334, Idaho Code. (3-31-22)

02. Rate of Accrual. All credited state service (ref. Sections 67-5332 and 59-1604, Idaho Code, for definitions) are counted in determining leave accrual rate. (3-31-22)

03. Mutual Agreement. Vacation leave requested by the employee may be used only when approved by the agency. The employee and the agency must mutually agree upon such time or times when vacation leave least interferes with the efficient operation of the agency taking into consideration the vacation preference of the employee. (3-31-22)

04. Interagency Transfer. An employee who is transferred from one state agency to another agency will be credited with accrued vacation leave by the receiving agency at the time of transfer. (3-31-22)

~~231~~~~20.~~ -- 239. (RESERVED)

240. SICK LEAVE.

01. Eligibility. Sick leave is earned in accordance with Section 67-5333, Idaho Code. (3-31-22)

02. Interagency Transfer. An employee who is transferred from one state agency to another will be credited by the receiving agency with the amount of sick leave accrued at the time of transfer. (3-31-22)

03. Reasons for Use. Sick leave must only be used in cases of actual illness or disability or other medical and health reasons necessitating the employee's absence from work, or in situations where the employee's personal attendance is required or desired because of serious illness, disability, or death and funeral in the family. For purposes of this rule, family means a spouse, child, foster child, parent, brother, sister, grandparent, grandchild, or the same relation by marriage, or legal guardian. (3-31-22)

04. Serious Medical Conditions. Sick leave may be used in conjunction with Family and Medical Leave. (Ref. Rule 242) (3-31-22)

05. Notification. It is the responsibility of the employee to notify his supervisor as soon as possible in the event of sickness or injury which prevents the employee from reporting for duty. (3-31-22)

06. Donated Leave. Vacation and sick leave may be transferred to another employee for the purposes of sick leave in accordance with Section 67-5334, Idaho Code. Such transfers are to be made from employee to employee. Vacation and sick leave is retained by the donating party until it is converted to sick leave in the receiving employee's account. (3-31-22)

07. Sick Leave Abuse. A predictable and reliable level of attendance is an essential function of almost

~~all positions. Consistent with the provisions of the Americans with Disabilities Act and the Family Medical Leave Act, a supervisor may investigate suspected sick leave abuse including a pattern of unscheduled absences which have a negative impact on the requirements of the job and take appropriate action. When an employee is absent due to illness or injury in excess of three (3) days, a doctor's certificate of justifiable cause for the absence may be required of the employee at the discretion of the immediate supervisor. A doctor's certification of illness or injury may be required of an employee for periods of less than three (3) consecutive working days whenever the immediate supervisor or manager believes special investigation of the absence should be made. (Ref. Rule 190 and Section 67-5333, Idaho Code)~~ (3-31-22)

~~241.0. WORKERS' COMPENSATION OR DISABILITY.~~

~~01. Use of Leave in a Workers' Compensation Claim. In the event of a disability incurred on the job covered by workers' compensation, the employee will be given the choice of either:~~ (3-31-22)

~~a. Leave of absence without pay while receiving workers' compensation; or~~ (3-31-22)

~~b. Utilizing a portion of accrued sick or other paid leave to supplement workers' compensation to maintain his regular salary; however, no appointing authority may require an employee to accept sick leave, vacation leave, or compensatory time off for overtime in lieu of workers' compensation provided by law. Additionally, an employee may not waive his rights to workers' compensation and cannot accept earned leave or other benefits in lieu thereof.~~ (3-31-22)

~~02. Layoff After Twelve Weeks Disability. If the employee becomes disabled, whether or not due to a workers' compensation injury, and is unable to fully return to work after twelve (12) weeks' absence during any consecutive fifty-two (52) week period or when accrued sick leave has been exhausted, whichever is longer, the employee's position may be declared vacant unless otherwise prohibited by state or federal law. The twelve (12) weeks' period of absence need not occur consecutively. The employee's name is certified to a reemployment preference register when the administrator has been notified by the physician that the employee is able to return to work. (Ref. Rule 101.01) Conditional releases will be considered in accordance with the Americans with Disabilities Act.~~ (3-31-22)()

~~242. FAMILY AND MEDICAL LEAVE.~~

~~01. Applicability. The provisions of the federal Family and Medical Leave Act (FMLA) apply without regard to the exclusion for worksites employing less than fifty (50) employees in a seventy five (75) mile area, and without the limitation on reinstatement of the highest paid employees. (Ref. 29 U.S.C. 2601 et seq.). The State is one (1) employer for the purposes of FMLA. For consistency, the administrator shall publish statewide guidance on FMLA policies.~~ (3-31-22)

~~02. Return to Work Release. An appointing authority may request a return to work release if, due to the nature of the health condition and the job:~~ (3-31-22)

~~a. Light or limited duty work or other accommodation is requested; or~~ (3-31-22)

~~b. The agency, having a reasonable basis in fact to do so, requires assurance that returning to work would not create a significant risk of substantial harm to the employee or others.~~ (3-31-22)

~~243. MATERNITY AND PATERNITY LEAVE.~~

~~01. Use Of Sick Leave. Pregnancy, childbirth 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.~~ (4-6-23)

~~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)~~

2441. SEPARATION UPON FAILURE TO RETURN TO WORK.

Except for those employees on authorized leave or placed on a register with reemployment preference prescribed by Rule 241.02.a., an employee who has not returned to work within five (5) working days after approved paid or unpaid leave or release by his or her physician shall be considered as having voluntarily separated. Such separation shall be treated as a voluntary resignation, and the employee shall remain eligible for reinstatement ~~as provided under Rule 124.~~ Written notification of his or her separation/resignation shall be mailed to the last known home address. Any objections by the employee to the notice, must be received within five (5) working days of receipt of the notice, or acceptance of the separation/resignation will be presumed. If objections are received within the timeline, a disciplinary separation (dismissal) or other formal disciplinary action may be pursued as provided in Rule 190. (3-31-22)()

~~2452. -- 249. (RESERVED)~~

~~250. **SPECIAL LEAVES.**~~

~~01. **Leave of Absence Without Pay.** (3-31-22)~~

~~a. **Approval.** In addition to workers' compensation, family medical leave, disability, or other statewide leave policies, the appointing authority may grant an employee leave without pay for a specified length of time when such leave would not have an adverse effect upon the agency. The request for leave must be in writing and establish reasonable justification for approval. (3-31-22)~~

~~b. **Reemployment.** The appointing authority approving the leave of absence assumes full responsibility for returning the employee to the same position or to another position in a classification allocated to the same pay grade for which the employee meets minimum qualifications. (3-31-22)~~

~~e. **Exhaustion of Accrued Leave.** Unless prohibited by workers' compensation, family medical leave, disability, or other statewide leave policies, the appointing authority has discretion on whether the employee is required to exhaust accrued vacation leave or compensatory time off for overtime before commencing leave without pay. (Ref. Rule 240) (3-31-22)~~

~~d. **Resignation.** If vacation leave and compensatory time off for overtime are not exhausted and the employee resigns from state service while on leave, he will be paid for such accruals in accordance with Sections 67-5334 and 67-5328, Idaho Code. (3-31-22)~~

~~02. **Leave Defaults.** When an employee does not have accrued sick leave to cover an entire absence the following leave types will be used to the extent necessary to avoid leave without pay: accrued compensatory time and vacation. If abuse of sick leave is suspected see Rule 240.07. (3-31-22)~~

~~03. **Military Leave With Pay.** Employees who are members of the National Guard or reservists in the armed forces of the United States engaged in military duty ordered or authorized under the provisions of law, are entitled each calendar year to one hundred twenty (120) hours of military leave of absence from their respective duties without loss of pay, credited state service or evaluation of performance. Such leave is separate from vacation, sick leave, holiday, or compensatory time off for overtime. (Ref. Section 46-216, Idaho Code). (3-31-22)~~

~~04. **Military Leave Without Pay.** An employee whose employment is reasonably expected to continue~~

~~indefinitely, and who leaves his position either voluntarily or involuntarily in order to perform active military duty, has reemployment rights as defined in Rule 124.05. The employee will either be separated from state service or placed in “inactive” status, at the option of the appointing authority. (3-31-22)~~

~~**05. Leave of Absence With Pay.** A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee is compensated. Leaves of absence with pay have no adverse effect on the status of the employee and include the following: vacation leave; sick leave; special leave situations; compensatory time off for overtime worked; and administrative leave. (3-31-22)~~

~~**06. Court and Jury Services and Problem-Solving and Due-Process Leave.** (3-31-22)~~

~~**a.** Connected with Official State Duty.~~ When an employee is subpoenaed or required to appear as a witness in any judicial or administrative proceeding in any capacity connected with official state duty, he is not considered absent from duty. The employee is not entitled to receive compensation from the court. Expenses (mileage, lodging, meals, and miscellaneous expenses) incurred by the employee must be reimbursed by his respective agency in accordance with agency travel regulations. (3-31-22)

~~**b.** Private Proceedings.~~ When an employee is required to appear as a witness or a party in any proceeding not connected with official state duty, the employee must be permitted to attend. The employee may use accrued leave or leave without pay. (3-31-22)

~~**c.** Jury Service.~~ When an employee is summoned by proper judicial authority to serve on a jury, he will be granted a leave of absence with pay for the time which otherwise the employee would have worked. The employee is entitled to keep fees and mileage reimbursement paid by the court in addition to salary. Expenses in connection with this duty are not subject to reimbursement by the state. (3-31-22)

~~**d.** Problem-solving and due process procedures.~~ Any employee who has been requested to serve as a mediator as provided by an agency problem-solving or due process procedure or to appear as a witness or representative during such a proceeding will be granted leave with pay, without charge to vacation leave or compensatory time off for overtime, to perform those duties. (3-31-22)

~~**e.** Notification.~~ An employee summoned for court and jury service or requested to serve as a witness or representative must notify his supervisor as soon as possible to obtain authorization for leave of absence. (3-31-22)

~~**07. Religious Leave.** Appointing authorities will make reasonable accommodations to an employee's need for leave for religious observances. Such leave is charged to the employee's accrued vacation leave or compensatory time off for overtime. (3-31-22)~~

~~**08. Leave During Facility Closure or Inaccessibility.** (3-31-22)~~

~~**a.** Authorization.~~ When a state office/facility is closed or declared inaccessible by the Governor or Governor's designee because of severe weather, civil disturbances, loss of utilities or other disruptions, affected employees who are unable to work remotely or be reassigned may be authorized administrative leave by the administrator to cover all or a portion of their scheduled hours of work during the closure or inaccessibility or subject to a mandatory furlough or a reduction in force. If an employee was not scheduled to work on the day when an office/facility is declared closed, the employee is not eligible for administrative leave. (3-31-22)

~~**b.** In the interest of employee safety, appointing authorities may approve employee early release, delayed start time, or absence from work due to weather or other emergency conditions. Those affected employees will use their leave balances or leave without pay. Administrative leave or leave without pay may be granted to affected employees scheduled to work on a day the Governor or Governor's designee declares a state office/facility closed or inaccessible in accordance with Rule 250.08.a. (3-31-22)~~

~~**c.** Nothing in this rule prevents an employee who is authorized to code paid administrative leave from choosing to code accrued leave balances or leave without pay. (3-31-22)~~

~~09. Red Cross Disaster Services Leave.~~ Employees who have been certified by the American Red Cross as disaster service volunteers will be granted up to one hundred twenty (120) hours of paid leave in any twelve (12) month period to participate in relief services pursuant to Section 67-5338, Idaho Code. (3-31-22)

~~10. Employee Assistance Program Leave.~~ Employees may use sick leave or any paid or unpaid leave as approved to attend appointments through the Employee Assistance Program (EAP) during normal working hours. (3-31-22)

~~11. Bone Marrow and Organ Donor Leave With Pay.~~ (3-31-22)

~~a. Approval.~~ Upon request, a full time employee will be granted five (5) work days' leave with pay to serve as a bone marrow donor or thirty (30) work days' leave with pay to serve as an organ donor. The employee must provide the appointing authority with written verification that the employee is the person serving as the donor. Paid leave, as provided in these rules, is limited to one time bone marrow and one time organ donor leave per employee. (Ref. Section 67-5343, Idaho Code) (3-31-22)

~~b. Use.~~ An employee who is granted such leave of absence will receive compensation without interruption during the leave period. For purposes of determining credited state service, pay advancement, performance awards, or any benefit affected by a leave of absence, the service of the employee is considered uninterrupted by the paid leave of absence. (Ref. Section 67-5343, Idaho Code) (3-31-22)

~~251.0. ADMINISTRATIVE LEAVE.~~

~~01. Investigation and Due Process Procedure.~~ Administrative leave may be granted by an appointing authority for employee investigations and due process procedures in accordance with Rule 190.02. ()

~~02. Closure or Inaccessibility.~~ Administrative leave for closure or inaccessibility of a state office/facility due to severe weather, emergencies or incidents that could jeopardize agency operations, or the safety of others ~~must be granted in accordance with Rule 250.08.~~ (3-31-22)()

~~03. Other Reasons.~~ Administrative leave for reasons other than those listed above must be approved in advance by the administrator. ()

~~252.1. -- 259.71. (RESERVED)~~

~~260. COMPENSABLE HOURS.~~

~~01. Biweekly Employees.~~ With the exception of holiday leave, no leave may be used if it results in pay in excess of the employee's regularly scheduled work week. (3-31-22)

~~02. Ineligible Employees.~~ Employees who are "executive" as defined by Section 67-5302(12), Idaho Code, are ineligible to earn or receive payment for hours worked or accrued beyond their regularly scheduled work week. (3-31-22)

~~261. HOURS WORKED.~~

~~01. Hours in Performance of Job.~~ Those hours actually spent in the performance of the employee's job, excluding holidays, vacation, sick leave other approved leaves of absence, and excluding on-call time. (3-31-22)

~~02. Travel Time.~~ Travel time is compensated pursuant to policy set forth by the Board of Examiners. (3-31-22)

~~03. Hours Outside of Regular Working Hours.~~ Attendance at lectures, meetings, training programs, and similar activities outside of the employee's regular working hours when attendance has been directed by the appointing authority or designee. (3-31-22)

~~262. OVERTIME.~~

~~01. **Employing Agencies.** The state is considered as one (1) employer for determining the number of hours an employee works. If an employee works for more than one (1) agency, the agency employing the employee when the overtime occurs is liable for compensatory time off or cash compensation as provided by law. (3-31-22)~~

~~02. **Compensation for Overtime.** Overtime accrual and compensation for classified employees is covered by Sections 67-5328 and 59-1607, Idaho Code, for nonclassified employees. Overtime is defined in Section 67-5302(20), Idaho Code. Overtime does not include any time, such as occasional or sporadic work, which is excluded from the overtime calculation by federal law. (3-31-22)~~

~~03. **Modification of Workweek or Schedule.** No agency will alter a previously established work week for the purpose of avoiding overtime compensation. An agency may modify the employee's regular schedule of work to avoid or minimize overtime. (3-31-22)~~

~~263. -- 271. (RESERVED)~~

272. POLICY MAKING AUTHORITY.

To address the need for all classified employees to be treated fairly, and in situations where the State may be considered as one (1) employer, the Division Administrator may issue guidance to provide consistent interpretation of federal law, state law, executive order or rule. Statewide policies governed by the administrator shall be adopted by appointing authorities. (3-31-22)()

273. -- 999. (RESERVED)

IDAPA 17 – IDAHO INDUSTRIAL COMMISSION

17.10.01 – ADMINISTRATIVE RULES UNDER THE CRIME VICTIMS COMPENSATION ACT

DOCKET NO. 17-1001-2301 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2024 Idaho State Legislature that must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. The pending rule will become final and effective upon the adjournment, *sine die*, of the Second Regular Session of the Sixty-seventh Idaho Legislature after approval.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-1004 and 72-1013, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 6, 2023 Idaho Administrative Bulletin, [Vol. 23-9, pages 207-217](#).

FEE SUMMARY: The following is a description of the fee or charge imposed or increased in this rulemaking: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rulemaking is not anticipated to have any fiscal impact on general funds, state funds, or any other known funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kamerron Slay, (208) 334-6017 or kamerron.slay@iic.idaho.gov.

DATED this 28th day of September, 2023.

George Gutierrez, Director
Industrial Commission
11321 W. Chinden Blvd.
Boise, Idaho 83714
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: 208-334-6000
Fax: 208-334-2321

THE FOLLOWING NOTICE PUBLISHED WITH THE 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(s) 72-1004 and 72-1013, Idaho Code.

PUBLIC HEARING SCHEDULE: Two public hearings concerning this rulemaking will be held as follows:

Thursday, September 7, 2023, from 1:00 p.m. to 2:00 p.m. MT
Coral Room, Chinden Campus 11321 W. Chinden Blvd., Boise, ID 83714

Wednesday, September 20, 2023, from 1:30 p.m. to 2:30 p.m. MT
Sawtooth Hearing Room, Chinden Campus 11321 W. Chinden Blvd., Boise, ID 83714

Information on virtual attendance will be made available on the Commission's website: <https://crimevictimcomp.idaho.gov/>.

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:

In accordance with [Executive Order 2020-01: Zero-Based Regulation](#), the Industrial Commission is striving to prevent the accumulation of costly, ineffective, outdated regulations, and reduce regulatory burden to achieve a more efficient operation of government. This rulemaking is being made by the agency, in collaboration with stakeholders, to increase transparency and streamline access to the Crime Victims Compensation Program. Changes include removal of the requirement to obtain Commission approval prior to changing physicians, removal of medical fee schedule from the chapter, and extending the time to submit bills for treatment from two years to three years.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There are no fee changes associated with this proposed rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: This rulemaking is not anticipated to have any fiscal impact on general funds, state funds, or any other known funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 3, 2023 Idaho Administrative Bulletin, [Vol. 23-5, pages 161-162](#) and the June 7, 2023 Idaho Administrative Bulletin, [Vol. 23-6, pages 54-55](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: There are no incorporation by reference in this chapter.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kamerron Slay, (208) 334-6017 or kamerron.slay@iic.idaho.gov.

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 September 27, 2023.

DATED this 2nd day of August, 2023.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 17-1001-2301

17.10.01 – ADMINISTRATIVE RULES UNDER THE CRIME VICTIMS COMPENSATION ACT

000. LEGAL AUTHORITY.

Sections 72-1004 and 72-1013, Idaho Code. ()

001. SCOPE.

This chapter includes the Industrial Commission's procedures for administering the Crime Victim's Compensation Act. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Crime Victim's Compensation Program ("CVCP"). The program administered by the Crime Victim's Division of the Idaho Industrial Commission pursuant to the Crime Victim's Compensation Act. ()

02. Employer. The employer at the time of the criminally injurious conduct. ()

03. Good Cause. "Good cause" as that term is found in the Crime Victim's Compensation Act will be determined at the Commission's discretion on a case-by-case basis. ()

04. Medical Services. For purposes of the fee schedule adopted by the Commission as authorized by Section 72-1026, Idaho Code, the following terms apply: ()

a. "Allowable payment" means the lower of the charge for medical services calculated in accordance with this rule or as billed by the provider. ()

b. "Ambulatory Surgery Center (ASC)" means a facility providing surgical services on an outpatient basis only. ()

c. "Hospital" is any acute care facility providing medical or rehabilitation services on an inpatient and outpatient basis. ()

i. Large Hospital means any hospital with more than one hundred (100) acute care beds. ()

ii. Small Hospital means any hospital with one hundred (100) acute care beds or less. ()

d. "Provider" means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of medical service related to the treatment of a claimant for benefits under the Idaho Crime Victims Compensation Act. ()

e. "Medical Service" means medical, surgical, dental, mental health, or other attendance or treatment,

nurse and hospital service, medicine, apparatus, appliance, prostheses and related service, facility, equipment and supply. ()

f. "Reasonable" means a charge does not exceed the Provider's "usual" charge and does not exceed the "customary" charge, as defined below. ()

g. "Usual" means the most frequent charge made by an individual Provider for a given medical service. ()

h. "Customary" means a charge that has an upper limit no higher than the 90th percentile, as determined by the Commission, of usual charges made by Idaho Providers for a given medical service. ()

011. CLAIMS FOR COMPENSATION.

01. Claim for Benefits. A claim for benefits is initiated by filing an Application in the form available on the agency's website. An Application for Compensation is deemed filed when the claimant has provided the required information and the signed application is received at the Commission's office in Boise. ()

02. Proceedings to Secure Benefits. ()

a. Initial Determination by CVCP Division. After sufficient information has been gathered, the CVCP Division may make an initial determination granting, partially granting, or denying benefits. An initial determination of the CVCP Division shall be final and conclusive as to all matters adjudicated in the determination ()

b. Request for Reconsideration. Within twenty (20) days from the date that the initial determination is issued, the claimant may file a request with the CVCP Division that the division reconsider its decision, or the CVCP Division may reconsider the matter on its own motion. The decision of the CVCP Division on reconsideration shall be final and conclusive as to all matters adjudicated in the decision. ()

012. HEARING PROCEDURES.

01. Request for Hearing Before Commission. Within forty-five (45) days from any final and conclusive initial determination of the CVCP Division, a claimant who disagrees with the determination may request a de novo hearing on the compensability of the subject claim before the Commission. Such a request must be received by the Commission within forty-five (45) days following the initial determination or order on reconsideration of the initial determination. The Commission may conduct the hearing or it may assign the matter to a Commissioner or Referee. If the matter is assigned to a Commissioner or a Referee, the Commissioner or Referee shall submit recommended findings and decision to the Commission for its review. ()

02. Recommendation. If the Commission does not approve the recommendations of a Commissioner or Referee, the Commission may review the record and enter its own findings and decision. ()

03. Notice of Hearing. The Commission shall give the claimant at least ten (10) days' advance written notice of the time and place of hearing and of the issues to be heard, either by personal service, certified mail, or electronically to the email address provided by the claimant. Service by mail shall be deemed complete when a copy of such notice is deposited in the United States post office, with postage prepaid, addressed to a party at their last known address as shown in the records and files of the Commission. Evidence of service by certificate or affidavit of the person making the same shall be filed with the Commission. Service by electronic means is deemed complete upon receipt by the intended party. ()

04. Transcript of Hearing. All hearings shall be recorded. ()

05. Subpoenas. Subpoenas shall be served in the manner provided by the Idaho Rules of Civil Procedure. Witness fees and mileage shall be in the amounts provided by the Idaho Rules of Civil Procedure and the claimant shall pay the fees of any witness who is subpoenaed to testify on their behalf. ()

06. Record. At the hearing the Application for Compensation filed by the claimant and any other

documents in the Commission's file that contain information relevant to the issues in the case shall be admitted into the record. Such documents shall be marked for identification and the record shall specify that those documents are admitted. The Commission, Commissioner, or Referee conducting the hearing shall give those documents the weight that is appropriate under the circumstances of the particular case. ()

07. Evidence. At the hearing the claimant may present such testimonial or other evidence that the claimant would have the Commission consider in support of the claim for benefits. Such evidence may include evidence previously considered by the CVCP Division in connection with the initial determination, or new evidence. The Commission shall allow a representative of the CVCP Division to present testimonial or other evidence in support of the CVCP Division's initial determination. ()

08. Finality of Decision. After a hearing, the decision of the Commission shall be final and conclusive as to all matters adjudicated. Within twenty (20) days from the date that such decision is issued, the claimant may file a Motion for Reconsideration or the Commission may reconsider the matter on its own motion. ()

09. Modification of Final Order. At the request of the claimant or on its own motion the Commission may review and amend any final order or decision, within three (3) years of the date of issue of such order or decision: ()

- a.** If there is a change in circumstances that affects the claimant's entitlement to benefits; ()
- b.** To correct a manifest injustice; ()
- c.** If the order or award is based upon facts which were misrepresented or that were not fully disclosed; or ()
- d.** To correct payments made erroneously. ()

013. COMPENSATION.

01. Disbursements of Compensation. Eligible payments shall be made directly to the provider of the service unless the claimant has already paid the provider. If the claimant has already paid the provider, payment shall be made to the claimant. ()

02. Allowable Payments for Medical Services. Pursuant to Section 72-1026, Idaho Code, the Commission adopts a medical fee schedule that is posted on the agency's website and will pay providers for medical services in accordance with said schedule. The conversion factors set out in the medical fee schedule may be adjusted once a year in conjunction with the annual adjustment of the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services. ()

03. Wage Loss Benefits. "Wages received at the time of the criminally injurious conduct" shall be the claimant's gross weekly wage; which shall be determined under Section 72-419(1)-(3), Idaho Code, if applicable, and if not, as follows: ()

a. If the Wages were fixed by the hour, and the claimant worked or was scheduled to work the same number of hours each week, the weekly wage shall be the hourly rate times the number of hours that the claimant worked or was scheduled to work each week. ()

b. If the Wages were fixed by the hour and the claimant did not work the same number of hours each week, or if the claimant was paid on a piecework or commission basis, the weekly wage shall be computed by averaging the amounts that the claimant was paid during his last four completed pay periods prior to the criminally injurious conduct and converting that amount to a weekly basis using a method consistent with 72-419(1)-(3); provided that, if the claimant was employed for less than four (4) pay periods before the criminally injurious conduct, the average shall be computed based upon the time period that they worked. ()

c. If none of the above methods are applicable, the weekly wage shall be computed in a manner

consistent with the above methods. ()

04. Weekly Compensation Benefits If Claimant Employable But Not Employed. If a claimant qualifies under Section 72-1019(7)(a), Idaho Code, the following provisions apply: ()

a. If at the time of the criminally injurious conduct the claimant was receiving unemployment benefits and as a result of that conduct the claimant becomes ineligible for those benefits, the claimant's weekly benefits under the Crime Victim's Compensation Act shall be the lesser of one hundred fifty dollars (\$150) or their weekly benefit amount under the Employment Security Law. ()

b. If at the time of the criminally injurious conduct the claimant was unemployed, but scheduled to begin employment on a date certain and if they were unable to work for one (1) week as a result of that conduct, weekly benefits under the Crime Victim's Compensation Act shall be the lesser of one hundred fifty dollars (\$150) or two-thirds (2/3) of the amount that they would have earned at their scheduled employment, and those benefits shall be payable beginning on the date that their employment was scheduled to begin. ()

c. If prior to the criminally injurious conduct the claimant was performing necessary household duties which they are disabled from performing as a result of that conduct and it is necessary to employ a person who does not reside in the claimant's house to perform those duties, the claimant shall receive weekly benefits under the Crime Victim's Compensation Act equal to the amount paid to the person so employed, but not exceeding one hundred fifty dollars (\$150) per week. ()

d. In other circumstances, the Commission may award an amount it deems appropriate. ()

05. Treating Physician. A claimant may choose their own treating physician. ()

06. Overpayment. The Commission may reduce future payments by an amount equal to the overpayment or request a refund when overpayments are made to either the claimant or the provider. ()

07. Reimbursement for Transportation Expenses. If the claimant utilizes a private vehicle, reimbursement shall be at the mileage rate allowed by the State Board of Examiners for state employees. Reimbursement is limited to one (1) round trip per day. The claimant shall not be reimbursed for the first fifteen (15) miles of any round trip, nor for traveling any round trip of fifteen (15) miles or less. Such distance shall be calculated by the shortest practical route of travel. The mileage reimbursement amount shall be credited to the medical benefit. ()

08. Payment of Bills. ()

a. Bills for treatment and sexual assault forensic examinations must be submitted within three (3) years from the date of treatment or the date of eligibility, whichever is later, to be compensable. The time for submission may be extended upon Commission approval. ()

b. For the purpose of dispersing payment, the claimant may be required to provide certain documentation, including a W-9 form. ()

09. Right to Recover. ()

a. The Commission's right to recover its full economic loss under a restitution order as a victim under Section 19-5304, Idaho Code, is independent from any other legal remedy it may have, including its statutory right to subrogation under Section 72-1023, Idaho Code, and is not barred by civil settlements entered into by other victims. ()

b. The Commission may reduce or waive its subrogated interest in a settlement or civil action. ()

014. -- 999. (RESERVED)

[Agency redlined courtesy copy]

17.10.01 – ADMINISTRATIVE RULES UNDER THE CRIME VICTIMS COMPENSATION ACT

000. LEGAL AUTHORITY.

~~This chapter is adopted under the legal authority of Sections 72-1004 and 72-1013, Idaho Code.~~ (3-31-22)()

001. SCOPE.

This chapter includes the Industrial Commission's procedures for administering the Crime Victim's Compensation Act. ()

~~**002. ADMINISTRATIVE APPEALS.**~~

~~Chapter 1, Section 11, Subsection 5, provides for appeals to the Commission from decisions of the Crime Victims Compensation Bureau.~~ (3-31-22)

~~**003. -- 009. (RESERVED)**~~

010. DEFINITIONS.

~~**01. Commission.** The Idaho Industrial Commission.~~ (3-31-22)

021. Crime Victim's Compensation Program (“CVCP”). The program administered by the Crime Victim's ~~Bureau~~ Division of the Idaho Industrial Commission ~~under pursuant to~~ the Crime Victim's Compensation Act. (3-31-22)()

~~**032. Employer.** The employer at the time of the criminally injurious conduct ~~on which the Application for Compensation is based.~~~~ (3-31-22)()

~~**03. Good Cause.** “Good cause” as that term is found in the Crime Victim’s Compensation Act will be determined at the Commission’s discretion on a case-by-case basis.~~ ()

~~**04. Medical Services.** Words and terms used for determining the allowable payment for medical services under these rules are defined in Subsections 010.04.a. through 010.04.h. For purposes of the fee schedule adopted by the Commission as authorized by Section 72-1026, Idaho Code, the following terms apply:~~ (3-31-22)()

a. “Allowable payment” means the lower of the charge for medical services calculated in accordance with this rule or as billed by the provider. ()

b. “Ambulatory Surgery Center (ASC)” means a facility providing surgical services on an outpatient basis only. ()

c. “Hospital” is any acute care facility providing medical or rehabilitation services on an inpatient and outpatient basis. ()

i. Large Hospital means any hospital with more than one hundred (100) acute care beds. ()

ii. Small Hospital means any hospital with one hundred (100) acute care beds or less. ()

d. “Provider” means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of medical service related to the treatment of a claimant for benefits under the Idaho Crime Victims Compensation Act. ()

e. "Medical Service" means medical, surgical, dental, mental health, or other attendance or treatment, nurse and hospital service, medicine, apparatus, appliance, prostheses and related service, facility, equipment and supply. ()

f. "Reasonable" means a charge does not exceed the Provider's "usual" charge and does not exceed the "customary" charge, as defined ~~in Paragraph 010.04.h below.~~ (3-31-22)()

g. "Usual" means the most frequent charge made by an individual Provider for a given medical service ~~to non-industrially injured patients.~~ (3-31-22)()

h. "Customary" means a charge that has an upper limit no higher than the 90th percentile, as determined by the Commission, of usual charges made by Idaho Providers for a given medical service. ()

~~05. **Wages.** Means the wages at the time of the criminally injurious conduct on which the Application for Compensation is based and includes non-cash remuneration such as lodging and meals provided by the Employer and gratuities such as tips, which are not paid by the employer, but that are received by the victim in the normal course of his employment.~~ (3-31-22)

011. APPLICATIONS CLAIMS FOR COMPENSATION.

~~01. **Claim for Benefits.** To claim benefits under the Crime Victims Compensation Act, the claimant shall file an Application for Compensation with the Crime Victim's Compensation Bureau of the Commission. Applications for Compensation shall be made using the form approved by the Commission. A claim for benefits is initiated by filing an Application in the form available on the agency's website. An Application for Compensation is deemed filed when it the claimant has provided the required information and the signed application is received at the Commission's office in Boise.~~ (3-31-22)()

~~02. **Providing Information.** Before paying benefits to any claimant, the Commission shall gather sufficient information to establish that the claimant is eligible for benefits. The Commission may require the claimant to assist the Commission in obtaining that information.~~ (3-31-22)

~~02. **Proceedings to Secure Benefits.**~~ ()

~~a. **Initial Determination by CVCP Division.** After sufficient information has been gathered, the CVCP Division may make an initial determination granting, partially granting, or denying benefits. An initial determination of the CVCP Division shall be final and conclusive as to all matters adjudicated in the determination~~ ()

~~b. **Request for Reconsideration.** Within twenty (20) days from the date that the initial determination is issued, the claimant may file a request with the CVCP Division that the division reconsider its decision, or the CVCP Division may reconsider the matter on its own motion. The decision of the CVCP Division on reconsideration shall be final and conclusive as to all matters adjudicated in the decision.~~ ()

~~03. **Employment Verification.** To verify information concerning a victim's employment, the Commission may require the victim's Employer or Employers to complete an Employment Verification form or the Commission may obtain such information from an Employer by telephone.~~ (3-31-22)

~~04. **Order.** After sufficient information has been gathered pursuant to Subsection 011.02 of this rule, the Commission may enter an award granting or partially granting benefits or an order denying benefits. The Commission may also enter orders necessary to further the purposes of the Act.~~ (3-31-22)

~~05. **Finality of Order.** An award or order issued by the Commission shall be final and conclusive as to all matters considered in the award or order; provided that within twenty (20) days from the date that such an award or order is issued, the claimant may file a request that the Crime Victim's Compensation Program reconsider the order, or the Crime Victim's Compensation Program may reconsider the matter on its own motion, and the order of the Crime Victim's Compensation Program shall be final upon issuance of the order on reconsideration; and provided further that, within forty five (45) days from the date that any order is issued by the Crime Victim's Compensation~~

~~Program, a claimant may file a Request for Hearing before the Commission. The Hearing shall be held in accordance with the procedures set out in Section 012 of these rules. Requests for Hearing before the Commission and requests that the Crime Victim's Compensation Program reconsider an order is deemed filed when received at the Commission's office in Boise. (3-31-22)~~

~~**06. Recipients of Payments for Medical Services.** If, pursuant to any order of the Commission or the Crime Victims Bureau, it is determined that a claimant is entitled to payment of medical expenses as provided in Section 72-1019(2), Idaho Code, or funeral or burial expenses as provided in Section 72-1019(4), Idaho Code, payment shall be made directly to the medical provider or the provider of funeral or burial services unless the claimant has already paid the provider; if the claimant has already paid the provider, payment shall be made to the claimant. (3-31-22)~~

~~**07. Allowable Payments for Medical Services.** The Commission shall pay providers the allowable payment for medical services under these rules adopted in accordance with Section 72-1026, Idaho Code. (3-31-22)~~

~~**a. Adoption of Standard.** The Commission hereby adopts the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the allowable payment under the Crime Victims Compensation Act for medical services provided by providers other than hospitals and ASCs. The standard for determining the allowable payment for hospitals and ASCs shall be: (3-31-22)~~

- ~~i. For large hospitals: Eighty-five percent (85%) of the reasonable inpatient charge. (3-31-22)~~
- ~~ii. For small hospitals: Ninety percent (90%) of the reasonable inpatient charge. (3-31-22)~~
- ~~iii. For ambulatory surgery centers (ASCs) and hospital outpatient charges: Eighty percent (80%) of the reasonable charge. (3-31-22)~~
- ~~iv. Surgically implanted hardware shall be reimbursed at the rate of actual cost plus fifty percent (50%). (3-31-22)~~
- ~~v. Paragraph 011.07.e. of this rule, does not apply to hospitals or ASCs. The Commission shall determine the allowable payment for hospital and ASC services based on all relevant evidence. (3-31-22)~~

~~**b. Conversion Factors.** The following conversion factors shall be applied to the fully implemented facility or non-facility Relative Value Unit (RVU) as determined by place of service found in the latest RBRVS, as amended, that was published before December 31 of the previous calendar year for a medical service identified by a code assigned to that service in the latest edition of the Physicians' Current Procedural Terminology (CPT), published by the American Medical Association, as amended:~~

MEDICAL FEE SCHEDULE			
DESCRIPTION	CODE RANGE(S)		CONVERSION FACTOR
Anesthesia	00000-09999		\$60.05
Surgery— Group One	22000-22999	Spine	\$144.48
	23000-24999	Shoulder, Upper Arm, & Elbow	
	25000-27299	Forearm, Wrist, Hand, Pelvis & Hip	
	27300-27999	Leg, Knee, & Ankle	
	29800-29999	Endoscopy & Arthroscopy	
	61000-61999	Skull, Meninges & Brain	
	62000-62259	Repair, Neuroendoscopy & Shunts	
	63000-63999	Spine & Spinal Cord	

MEDICAL FEE SCHEDULE			
DESCRIPTION	CODE RANGE(S)		CONVERSION FACTOR
Surgery— Group Two	28000—28999 64550—64999	Foot & Toes Nerves & Nervous System	\$129.00
Surgery— Group Three	13000—19999 20650—21999	Integumentary System Musculoskeletal System	\$113.52
Surgery— Group Four	20000—20615 30000—39999 40000—49999 50000—59999 60000—60999 62260—62999 64000—64549 65000—69999	Musculoskeletal System Respiratory & Cardiovascular Digestive System Urinary System Endocrine System Spine & Spinal Cord Nerves & Nervous System Eye & Ear	\$87.72
Surgery— Group Five	10000—12999 29000—29799	Integumentary System Casts & Strapping	\$69.14
Radiology	70000—79999	Radiology	\$87.72
Pathology & Laboratory	80000—89999	Pathology & Laboratory	To Be Determined
Medicine— Group One	90000—90749 94000—94999 97000—97799 97800—98999	Immunization, Injections, & Infusions Pulmonary / Pulse Oximetry Physical Medicine & Rehabilitation Acupuncture, Osteopathy, & Chiropractic	\$46.44
Medicine— Group Two	90750—92999 96040—96999 99000—99607	Psychiatry & Medicine Assessments & Special Procedures E / M & Miscellaneous Services	\$66.56
Medicine— Group Three	93000—93999 95000—96020	Cardiography, Catheterization, & Vascular Studies Allergy / Neuromuscular Procedures	\$72.24

(3-31-22)

e. The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Code 01996. (3-31-22)

d. Adjustment of Conversion Factors. The conversion factors set out in this rule may be adjusted each fiscal year (FY), starting with FY 2012, as determined by the Commission. (3-31-22)

e. Services Without a CPT Code, RVU or Conversion Factor. The allowable payment for medical services that do not have a current CPT code, a currently assigned RVU, or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant evidence, as determined by the Commission. Where a service with a CPT Code, RVU, and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 011.07.b. of this rule, determine the allowable payment for that service, based on all relevant evidence.

(3-31-22)

~~f. Coding. The Commission will generally follow the coding guidelines published by the Centers for Medicare and Medicaid Services and by the American Medical Association, including the use of modifiers. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form. Modifiers will be reimbursed as follows:~~ (3-31-22)

~~i. Modifier 50: Additional fifty percent (50%) for bilateral procedure. (3-31-22)~~

~~ii. Modifier 51: Fifty percent (50%) of secondary procedure. This modifier will be applied to each medical or surgical procedure rendered during the same session as the primary procedure. (3-31-22)~~

~~iii. Modifier 80: Twenty-five percent (25%) of coded procedure. (3-31-22)~~

~~iv. Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. (3-31-22)~~

~~08. Wage Loss Benefits. For the purpose of determining compensation benefits under Sections 72-1019(1) and 72-1019(3), Idaho Code, "wages received at the time of the criminally injurious conduct" shall be the victim's gross weekly wage; which shall be determined under Section 72-419(1) (3), Idaho Code, if applicable, and if not, as follows: (3-31-22)~~

~~a. If the Wages were fixed by the hour, and the victim worked or was scheduled to work the same number of hours each week, the weekly wage shall be the hourly rate times the number of hours that the victim worked or was scheduled to work each week, plus one-half (1/2) the hourly wage times the number of hours worked or scheduled each week in excess of forty (40) hours if the victim was paid time and a half for work in excess of forty (40) hours per week. (3-31-22)~~

~~b. If the Wages were fixed by the hour and the victim did not work the same number of hours each week, or if the victim was paid on a piecework or commission basis, the weekly wage shall be computed by averaging the amounts that the victim was paid during his last four completed pay periods prior to the criminally injurious conduct and converting that amount to a weekly basis using a method consistent with 72-419(1) (3); provided that, if the victim was employed for less than four (4) pay periods before the criminally injurious conduct, the average shall be computed based upon the time period that he worked. (3-31-22)~~

~~e. If none of the above methods are applicable, the weekly wage shall be computed in a manner consistent with the above methods. (3-31-22)~~

~~09. Treating Physician. A victim may choose his own treating physician. If, after filing an Application for Compensation, a victim changes physicians without prior approval of the Commission, or if, without prior approval of the Commission, he seeks treatment or examination by a physician to whom he was referred by his treating physician, the Commission may deny payment for such treatment or examination. (3-31-22)~~

~~10. Overpayment. If the Commission erroneously makes payments, the Commission may reduce future payments by an amount equal to the overpayment or request a refund when overpayments are made to either the claimant or the provider. (3-31-22)~~

~~11. Weekly Compensation Benefits If Victim Employable But Not Employed. If a victim is qualified under Section 72-1019(7)(a), Idaho Code, the following provisions apply: (3-31-22)~~

~~a. If at the time of the injurious conduct the victim was receiving unemployment benefits and as a result of that conduct the victim becomes ineligible for those benefits, the claimant's weekly benefits under the Crime Victims Compensation Act shall be the lesser of one hundred fifty dollars (\$150) or his weekly benefit amount under the Employment Security Law. (3-31-22)~~

~~b. If at the time of the criminally injurious conduct the victim was unemployed, but scheduled to begin employment on a date certain and if he was unable to work for one (1) week as a result of that conduct, weekly~~

~~benefits under the Crime Victims Compensation Act shall be the lesser of one hundred fifty dollars (\$150) or two-thirds (2/3) of the amount that he would have earned at his scheduled employment, and those benefits shall be payable beginning on the date that his employment was scheduled to begin. (3-31-22)~~

~~e. If prior to the criminally injurious conduct the victim was performing necessary household duties which he is disabled from performing as a result of that conduct and it is necessary to employ a person who does not reside in the victim's house to perform those duties, the victim shall receive weekly benefits under the Crime Victims Compensation Act equal to the amount paid to the person so employed, but not exceeding one hundred fifty dollars (\$150) per week. (3-31-22)~~

~~d. In other circumstances, the Commission may award an amount it deems appropriate. (3-31-22)~~

~~12. **Reimbursement for Transportation Expenses.** If the claimant utilizes a private vehicle, reimbursement shall be at the mileage rate allowed by the State Board of Examiners for state employees. Reimbursement shall be provided only if services are not available in the local area and is limited to one (1) round trip per day. The claimant shall not be reimbursed for the first fifteen (15) miles of any round trip, nor for traveling any round trip of fifteen (15) miles or less. Such distance shall be calculated by the shortest practical route of travel. The mileage reimbursement amount shall be credited to the medical benefit. (3-31-22)~~

~~13. **Payment of Bills.** Bills for treatment and sexual assault forensic examinations must be submitted within two (2) years from the date of treatment or the date of eligibility, whichever is later, to be compensable. (3-31-22)~~

012. HEARING PROCEDURES.

~~01. **Request for Hearing.** If a Request for Hearing is filed, an informal hearing shall be held. The Commission may conduct the hearing or it may assign the matter to a Commissioner or Referee. If the matter is assigned to a Commissioner or a Referee, the Commissioner or Referee shall submit recommended findings and decision to the Commission for its review. (3-31-22)~~

~~02. **Recommendations.** If the Commission does not approve the recommendations of a member or Referee, the Commission may:~~

~~a. Review the record and enter its own findings and decision; (3-31-22)~~

~~b. Conduct another informal hearing and issue a decision based upon the record of both hearings; or (3-31-22)~~

~~e. Assign the matter to another member or Referee to conduct another informal hearing and make recommendations pursuant to Subsection 012.01 above based upon the record of both hearings. (3-31-22)~~

~~03. **Notice of Hearing.** The Commission shall give the claimant at least ten (10) days' advance written notice of the time and place of hearing and of the issues to be heard, either by personal service or certified mail. Service by mail shall be deemed complete when a copy of such notice is deposited in the United States post office, with postage prepaid, addressed to a party at his last known address as shown in the records and files of the Commission. Evidence of service by certificate or affidavit of the person making the same shall be filed with the Commission. (3-31-22)~~

~~04. **Transcript of Hearing.** All hearings shall be tape recorded. In addition, the Commission may arrange for a stenographic or machine transcription of any hearing. (3-31-22)~~

~~05. **Record.** At the hearing the Application for Compensation filed by the claimant and any other documents in the Commission's file that contain information relevant to the issues in the case shall be admitted into the record. Such documents shall be marked for identification and the record shall specify that those documents are admitted. The Commission, member, or Referee conducting the hearing shall give those documents the weight that is appropriate under the circumstances of the particular case. (3-31-22)~~

~~06. **Evidence.** At the hearing, after the claimant has presented his evidence, the Commission, or the Commissioner or Referee conducting the hearing shall allow an employee of the Commission to present evidence. After the presentation of evidence by an employee of the Commission, the Commission, or the Commissioner or Referee conducting the hearing may, in its or his discretion, allow any other person to testify. (3-31-22)~~

~~07. **Finality of Decision.** After a hearing, the decision of the Commission shall be final and conclusive as to all matters adjudicated. Within twenty (20) days from the date that such decision is issued, the claimant may file a Motion for Reconsideration or the Commission may reconsider the matter on its own motion. (3-31-22)~~

~~08. **Crime Victim's Compensation Program Review.** At the request of the claimant or on its own motion the Crime Victim's Compensation Program may review and amend any final order or award, within three (3) years of the date of issue of such order or award: (3-31-22)~~

~~a. If there is a change in circumstances that affects the claimant's entitlement to benefits; (3-31-22)~~

~~b. To correct a manifest injustice; (3-31-22)~~

~~e. If the order or award is based upon facts which were misrepresented or that were not fully disclosed; or (3-31-22)~~

~~d. To comply with the annual review requirements of Section 72-1021, Idaho Code. (3-31-22)~~

~~09. **Subpoenas.** Subpoenas shall be served in the manner provided by the Idaho Rules of Civil Procedure. Witness fees and mileage shall be in the amounts provided by the Idaho Rules of Civil Procedure and the Claimant shall pay the fees of any witness who is subpoenaed to testify in his behalf. (3-31-22)~~

012. HEARING PROCEDURES.

01. **Request for Hearing Before Commission.** Within forty-five (45) days from any final and conclusive initial determination of the CVCP Division, a claimant who disagrees with the determination may request a de novo hearing on the compensability of the subject claim before the Commission. Such a request must be received by the Commission within forty-five (45) days following the initial determination or order on reconsideration of the initial determination. The Commission may conduct the hearing or it may assign the matter to a Commissioner or Referee. If the matter is assigned to a Commissioner or a Referee, the Commissioner or Referee shall submit recommended findings and decision to the Commission for its review. ()

02. **Recommendation.** If the Commission does not approve the recommendations of a Commissioner or Referee, the Commission may review the record and enter its own findings and decision. ()

03. **Notice of Hearing.** The Commission shall give the claimant at least ten (10) days' advance written notice of the time and place of hearing and of the issues to be heard, either by personal service, certified mail, or electronically to the email address provided by the claimant. Service by mail shall be deemed complete when a copy of such notice is deposited in the United States post office, with postage prepaid, addressed to a party at their last known address as shown in the records and files of the Commission. Evidence of service by certificate or affidavit of the person making the same shall be filed with the Commission. Service by electronic means is deemed complete upon receipt by the intended party. ()

04. **Transcript of Hearing.** All hearings shall be recorded. ()

05. **Subpoenas.** Subpoenas shall be served in the manner provided by the Idaho Rules of Civil Procedure. Witness fees and mileage shall be in the amounts provided by the Idaho Rules of Civil Procedure and the claimant shall pay the fees of any witness who is subpoenaed to testify on their behalf. ()

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that is appropriate under the circumstances of the particular case. ()

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08. Finality of Decision. After a hearing, the decision of the Commission shall be final and conclusive as to all matters adjudicated. Within twenty (20) days from the date that such decision is issued, the claimant may file a Motion for Reconsideration or the Commission may reconsider the matter on its own motion. ()

09. Modification of Final Order. At the request of the claimant or on its own motion the Commission may review and amend any final order or decision, within three (3) years of the date of issue of such order or decision: ()

- a.** If there is a change in circumstances that affects the claimant's entitlement to benefits; ()
- b.** To correct a manifest injustice; ()
- c.** If the order or award is based upon facts which were misrepresented or that were not fully disclosed; or ()
- d.** To correct payments made erroneously. ()

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01. Disbursements of Compensation. Eligible payments shall be made directly to the provider of the service unless the claimant has already paid the provider. If the claimant has already paid the provider, payment shall be made to the claimant. ()

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03. Wage Loss Benefits. "Wages received at the time of the criminally injurious conduct" shall be the claimant's gross weekly wage; which shall be determined under Section 72-419(1)-(3), Idaho Code, if applicable, and if not, as follows: ()

- a.** If the Wages were fixed by the hour, and the claimant worked or was scheduled to work the same number of hours each week, the weekly wage shall be the hourly rate times the number of hours that the claimant worked or was scheduled to work each week. ()
- b.** If the Wages were fixed by the hour and the claimant did not work the same number of hours each week, or if the claimant was paid on a piecework or commission basis, the weekly wage shall be computed by averaging the amounts that the claimant was paid during his last four completed pay periods prior to the criminally injurious conduct and converting that amount to a weekly basis using a method consistent with 72-419(1)-(3); provided that, if the claimant was employed for less than four (4) pay periods before the criminally injurious conduct, the average shall be computed based upon the time period that they worked. ()

c. If none of the above methods are applicable, the weekly wage shall be computed in a manner consistent with the above methods. ()

04. Weekly Compensation Benefits If Claimant Employable But Not Employed. If a claimant

qualifies under Section 72-1019(7)(a), Idaho Code, the following provisions apply: ()

a. If at the time of the criminally injurious conduct the claimant was receiving unemployment benefits and as a result of that conduct the claimant becomes ineligible for those benefits, the claimant's weekly benefits under the Crime Victim's Compensation Act shall be the lesser of one hundred fifty dollars (\$150) or their weekly benefit amount under the Employment Security Law. ()

b. If at the time of the criminally injurious conduct the claimant was unemployed, but scheduled to begin employment on a date certain and if they were unable to work for one (1) week as a result of that conduct, weekly benefits under the Crime Victim's Compensation Act shall be the lesser of one hundred fifty dollars (\$150) or two-thirds (2/3) of the amount that they would have earned at their scheduled employment, and those benefits shall be payable beginning on the date that their employment was scheduled to begin. ()

c. If prior to the criminally injurious conduct the claimant was performing necessary household duties which they are disabled from performing as a result of that conduct and it is necessary to employ a person who does not reside in the claimant's house to perform those duties, the claimant shall receive weekly benefits under the Crime Victim's Compensation Act equal to the amount paid to the person so employed, but not exceeding one hundred fifty dollars (\$150) per week. ()

d. In other circumstances, the Commission may award an amount it deems appropriate. ()

05. Treating Physician. A claimant may choose their own treating physician. ()

06. Overpayment. The Commission may reduce future payments by an amount equal to the overpayment or request a refund when overpayments are made to either the claimant or the provider. ()

07. Reimbursement for Transportation Expenses. If the claimant utilizes a private vehicle, reimbursement shall be at the mileage rate allowed by the State Board of Examiners for state employees. Reimbursement is limited to one (1) round trip per day. The claimant shall not be reimbursed for the first fifteen (15) miles of any round trip, nor for traveling any round trip of fifteen (15) miles or less. Such distance shall be calculated by the shortest practical route of travel. The mileage reimbursement amount shall be credited to the medical benefit. ()

08. Payment of Bills. ()

a. Bills for treatment and sexual assault forensic examinations must be submitted within three (3) years from the date of treatment or the date of eligibility, whichever is later, to be compensable. The time for submission may be extended upon Commission approval. ()

b. For the purpose of dispersing payment, the claimant may be required to provide certain documentation, including a W-9 form. ()

09. Right to Recover. ()

a. The Commission's right to recover its full economic loss under a restitution order as a victim under Section 19-5304, Idaho Code, is independent from any other legal remedy it may have, including its statutory right to subrogation under Section 72-1023, Idaho Code, and is not barred by civil settlements entered into by other victims. ()

b. The Commission may reduce or waive its subrogated interest in a settlement or civil action. ()

0134. -- 999. (RESERVED)

IDAPA 21 – DIVISION OF VETERANS SERVICES
21.01.04 – RULES GOVERNING IDAHO STATE VETERANS CEMETERIES
DOCKET NO. 21-0104-2301
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2024 Idaho State Legislature that must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. The pending rule will become final and effective upon the adjournment, *sine die*, of the Second Regular Session of the Sixty-seventh Idaho Legislature after approval.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 65-108 and 65-202, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending fee rule with an explanation of the reasons for the change.

This Rule will expand eligibility for interment at Idaho State Veterans Cemeteries to non-retiree Guard and Reservists who completed an enlistment of service honorably but are otherwise ineligible because they were never activated federally or did not complete enough service time to retire out of the Guard or Reserves.

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the March 1, 2023, Idaho Administrative Bulletin, [Vol. 23-3, pages 26-29](#).

FEE SUMMARY: The following is a description of the fee or charge imposed or increased in this rulemaking as authorized in Section 65-202, Idaho Code. Pursuant to Section 67-5224(2)(d), Idaho Code, this pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature.

This expands eligibility for burial to non-Veteran National Guard and Reservists. Because the VA does not provide a burial benefit to these individuals, these newly eligible individuals who wish to be buried in the State Veterans Cemetery will have to cover the cost (equivalent to the VA reimbursement/plot allowance benefit) as well as the cost of the cemetery marker either \$400 for a casket/upright marker or \$250 for all other interment/memorial marker types.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Kevin Wallior, 208-780-1308.

DATED this 6th day of October, 2023.

Kevin R. Wallior
Management Assistant
Idaho Division of Veterans Services
351 N. Collins Road
Boise, ID 83702
Ph: 208-780-1308, fax: 208-780-1301
email: kevin.wallior@veterans.idaho.gov

**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is March 1, 2023

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 65-108 and 65-202, 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 March 15, 2023.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This Temporary Rule will expand eligibility for interment at Idaho State Veterans Cemeteries to non-retiree Guard and Reservists who completed an enlistment of service honorably but are otherwise ineligible because they were never activated federally or did not complete enough service time to retire out of the Guard or Reserves.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The rule complies with a new federal law, PUBLIC LAW 117-103 THE CONSOLIDATED APPROPRIATIONS ACT FOR FISCAL YEAR 2022 (Burial Equity for Guards and Reserves Act) which expands eligibility for State Veterans Cemeteries to non-military retiree Guard and Reservists without risking eligibility for VA Construction Grants for State Veterans Cemeteries.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

This law expands eligibility for burial National Guard and Reservists but does not expand eligibility for VA burial benefits. These newly eligible individuals who wish to be buried in the State Veterans Cemetery will have to cover the cost (equivalent to the VA reimbursement/plot allowance benefit) themselves.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because it is prompted by a federal law.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Kevin Wallior, 208-780-1308.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before March 22, 2023.

DATED this 1st day of March, 2023.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0104-2301

Italicized text indicates amendments to the proposed text as adopted in the pending rule.

000. LEGAL AUTHORITY.

The Idaho Legislature has given the Administrator of the Division of Veterans Services the authority to promulgate rules governing the Idaho State Veterans Cemetery pursuant to Section 65-202, Idaho Code. (3-23-22)()

(BREAK IN CONTINUITY OF SECTIONS)

002. INCORPORATION BY REFERENCE.

- 01. Incorporated Documents.** These rules incorporate by reference the following: (3-23-22)
- a.** The full text of 38 CFR 38.620, dated July 1, 2001. (3-23-22)
 - b.** 38 U.S.C.A. Section 2402, (2004 and Supp. 2004). (3-23-22)
 - c.** 38 CFR 39.5(d), dated July 1, 2008. (3-23-22)

~~**02. Document Availability.** Copies are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402-0001. (3-23-22)~~

003. -- 009. (RESERVED)

010. DEFINITIONS.

- 01. Administrator.** The Administrator of the Idaho Division of Veterans Services or his designee. (3-23-22)
- 02. Applicant.** The individual requesting interment, disinterment or reinterment of a qualified person. (3-23-22)
- 03. Armed Forces Member.** A member or former member of the armed forces of the United States, the reserve component of the armed forces of the United States, the reserve officers training corps of the United States, or the armed forces of an ally of the United States who is eligible for burial in national cemeteries pursuant to 38 CFR 38.620 and 38 U.S.C. Section 2402. (3-23-22)
- 04. Cemetery.** Idaho State Veterans Cemeteries authorized pursuant to Section 65-108, Idaho Code. (3-23-22)
- 05. Committal Service.** A gathering of one (1) or more individuals prior to interment or reinterment. (3-23-22)
- 06. Cremains.** Cremated human remains. (3-23-22)
- ~~**07. Designated Interpretive Trail.** A public recreational trail designated by a sign or marker. (3-23-22)~~
- 087. Disinterment.** The removal of human remains from their place of interment. (3-23-22)

- ~~098.~~ **Division.** The Idaho Division of Veterans Services. (3-23-22)
- ~~109.~~ **Interment.** The disposition of human remains by burial or the placement of cremains in a grave plot or in any location designated by the Administrator for use as a permanent location of cremains. (3-23-22)
- ~~110.~~ **Qualified Person.** A person who satisfies the requirements for eligibility for interment in national cemeteries found at 38 CFR 38.620 and 38 U.S.C. Section 2402 and is not prohibited from being interred by 38 CFR 39.10(b); or a member or former member of the reserve component of the armed forces of the United States; the reserve officers training corps of the United States; or members of the Army National Guard or Air National Guard who completed at least one term of enlistment, or officers who completed at least four years of service. (~~3-23-22~~)()
- ~~121.~~ **Reinterment.** The interment of previously interred human remains. (3-23-22)
- ~~132.~~ **Unremarried Spouse.** An individual who is the surviving spouse of a deceased armed forces member and who has not remarried. (3-23-22)
- ~~143.~~ **USDVA.** The United States Department of Veterans Affairs. (3-23-22)

(BREAK IN CONTINUITY OF SECTIONS)

024. FEES FOR INTERMENT, DISINTERMENT, REINTERMENT, AND MEMORIAL.

The Administrator shall charge the following fees: (3-23-22)

- 01. Interment.** (3-23-22)
- a.** A fee equal to the then current USDVA reimbursement for opening and closing an interment site containing a pre-placed crypt. The Administrator will accept, as full payment, the amount of reimbursement by the USDVA to the Division for opening and closing an interment site containing a pre-placed crypt for a qualified veteran persons eligible for USDVA reimbursement. (~~3-23-22~~)()
- b.** ~~In An~~ additional to the fee charged under Paragraph 024.01.a. of this rule, the Administrator shall charge a fee of seven hundred dollars (\$700) for preparation of a casket burial at an interment site not containing a pre-placed crypt. (~~3-23-22~~)()
- c.** For interments ineligible for a USDVA provided marker, the Administrator shall charge: ()
- i.** \$400 for the cost of a Casket/Upright Marker; or ()
- ii.** \$250 for all other Interment/Memorial Marker types. ()
- 02. Disinterment.** A fee equal to the then current USDVA reimbursement for opening and closing an interment site. The expenses of removal, transportation and reinterment of remains, and the expenses of removal, transportation and reinstallation of the grave marker, if any, shall be paid by the applicant for disinterment. (3-23-22)
- 03. Reinterment.** A fee equal to the then current USDVA reimbursement for opening and closing an interment site for reinterment. The expenses of reinterment of remains and reinstallation of the grave marker, if any, shall be paid by the applicant for reinterment. (3-23-22)
- 04. Memorial Marker.** A fee of two hundred fifty dollars (~~\$200~~250) to order, install, and provide perpetual care of a furnished flush granite marker to commemorate an eligible deceased Veteran a qualified person whose remains have not been recovered or identified, were buried at sea, donated to science, or cremated and the remains scattered. (~~3-23-22~~)()

(BREAK IN CONTINUITY OF SECTIONS)

040. MEMORIALS AND DONATIONS.

01. Flowers and Grave Decorations. The Administrator will post the requirements for natural and artificial flowers and other grave decorations in the cemetery. Cemetery personnel may remove and discard grave decorations that fail to comply with the posted requirements or that are faded, wilted, tattered or worn. (3-23-22)

02. Plaques, Statues, and Other Memorials. The Administrator may approve plaques, statues, and other memorials to commemorate events, units, individuals, groups, and organizations. Persons wishing to install such memorials at their own cost may submit an application on a form prescribed by the Administrator. Memorials approved by the Administrator are considered donations to the cemetery. (3-23-22)

03. Grave Markers. Grave markers issued by the USDVA are approved as follows: (3-23-22)

a. Graves – Upright granite markers. (3-23-22)

b. Interments in an area reserved for the interment of cremains in the soil – Flush granite markers. (3-23-22)

c. Interment of cremains in a structure reserved for the interment of cremains – Granite niche markers. (3-23-22)

~~**04. Donations and Gifts.** The Administrator may accept gifts and donations to the Veterans Cemetery Maintenance Fund established pursuant to Section 65-107, Idaho Code. (3-23-22)~~

IDAPA 59 – PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO

59.01.01 – RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

DOCKET NO. 59-0101-2301 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2024 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. The pending rule will become final and effective upon the adjournment, *sine die*, of the Second Regular Session of the Sixty-seventh Idaho Legislature.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1301, 59-1314, 59-1372, 59-1383, and 59-1392, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are changes to two sections of the pending rule. Section 200 is the addition of the words “the definition of” to clarify that the addition to Section 59-1302(16), Idaho Code, is with respect to the definition of a firefighter. Section 702 has changes to clarify the active member is the member that participates in the active member allocation. The other changes are to correct grammar.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the November 1, 2023, Idaho Administrative Bulletin, [Vol. 23-11, pages 119-153](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, this pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

Does not apply to this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year:

The change in this rule will not have any fiscal impact on the state General Fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact: Cheryl George, (208) 287-9231.

DATED this 27th of November 2023.

Don Drum, Executive Director
Public Employees Retirement System of Idaho
P.O. Box 83720
Boise, ID 83720-0078
Phone: (208) 287-9230
Fax: (208) 334-3804

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 1-2002, 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 November 15, 2023.

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

In accordance with the [Zero-Based Regulation E. O. 2020-01](#), the goal of this rulemaking is to make changes and modifications that remove obsolete language, eliminate unnecessary restrictions, and provide overall clarity.

Sections 002, 012, 013, 150, 325, 375, 376, 401, 532, 544, 548, and 600 are deleted as unnecessary; Sections 103, 114, and 503 are amended to be more easily read; Section 200 is amended to change statutory reference; Section 308 is amended to delete subsection 03 as unnecessary; Section 404 is amended to delete the last sentence as unnecessary; Section 526 deletes the phrase “will not be considered in determining benefits” as is unnecessary; Sections 532 and 543 are deleted as duplicative; Section 535 is deleted and replaced by Section 539; Section 549 amended to delete the first two sentences as unnecessary and 549.02 deleted because this is addressed in 508; Section 702 is replaced with the language from Subsection 004.01; and Section 508 is amended to comply with federal law, Secure 2.0 Act of 2022 section 107.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There are no fees or charges associated with this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year: The change in this rule will not have any fiscal impact on the state General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the September 6, 2023, Idaho Administrative Bulletin, [23-9 pages 909-910](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

There are no documents incorporated by reference in this chapter of rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule(s), contact Cheryl George, (208) 287-9231.

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 November 22, 2023.

DATED this 6th day of October, 2023.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 59-0101-2301

59.01.01 – RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

001. LEGAL AUTHORITY.

Sections 50-1507, 50-1508, 50-1524, 59-1301, 59-1314, 59-1372, 59-1383, 59-1392, and 72-1405, Idaho Code. ()

002. (RESERVED)

003. ADMINISTRATIVE APPEAL.

Administrative appeals are conducted pursuant to these rules. ()

004. DEFINITIONS.

The definitions in Section 59-1302, Idaho Code, and the following apply to this chapter: ()

01. Active Member. A member participates in the active member allocation only if they are active and have at least twelve (12) months of accrued membership service on the last day of the fiscal year. For purposes of allocating extraordinary gains, active members also include: ()

a. Seasonal employees who have a pattern of employment that includes at least six (6) months of membership service in each of the preceding three (3) consecutive years; and ()

b. Employees who are on leave of absence on the last day of the fiscal year and either: ()

i. Return to active service for at least thirty (30) days before December 31 immediately following the end of the fiscal year; or ()

ii. Are entitled to benefits under the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA). ()

02. Actuary. This is the actuary retained by the Board. ()

03. Administrator. The Board. ()

04. Applicant. “Applicant” means an applicant for disability retirement under Section 59-1352, Idaho Code, or an individual requesting resumption of a disability retirement allowance under Section 59-1354A, Idaho Code. ()

05. Base Plan or Account. This is the PERSI defined benefit plan not including gain sharing allocations or interest thereon, or the individual accounts therein. ()

06. Board. “Board” means the governing authority of the Public Employee Retirement System of Idaho as provided by Section 59-1304, Idaho Code, of the Firefighters’ Retirement Fund created by Chapter 14, Title 72, Idaho Code, and the Policeman’s Retirement Fund created by Chapter 15, Title 50, Idaho Code. ()

07. Choice Plan or Account. This includes two (2) elements: ()

a. The defined contribution component of the PERSI plan consisting of gain sharing allocations together with earnings thereon or the individual accounts therein; and ()

b. The plan designated to receive voluntary and employer contributions as provided in Section 59-1308, Idaho Code, or the individual accounts therein. ()

08. Code. The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the IRS Code are to such sections as they may from time to time be amended or renumbered. ()

09. Compensation. “Compensation” as used in Section 59-1342(6), Idaho Code, means “salary” as defined by Section 59-1302(31), Idaho Code. ()

10. Court Security. “Court Security” as used in Section 59-1303(3)(g), Idaho Code, means the employee’s primary responsibilities are designated by court order to quell disturbances in the courthouse, to prevent the escape of prisoners, to exclude weapons from the courthouse, and to perform other related courthouse security matters. ()

11. Date of Retirement. “Date of retirement” means the effective date on which a retirement allowance becomes payable. ()

12. Designated Beneficiary. The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under section 401(a)(9) of the IRS Code and section 1.401(a)(9)-4, Q&A-4, of the Treasury regulations. ()

13. Employment. “Employment” as used in Section 59-1302(14)(B)(b), Idaho Code, shall mean the period of time from a member’s date of hire to the member’s succeeding date of separation from that state agency, political subdivision or government entity. Placing a member on leave of absence with or without pay shall not be considered as a separation from the employer. ()

14. Firefighters' Retirement Fund. “Firefighters’ Retirement Fund” or “FRF” is the retirement fund provided by Chapter 14, Title 72, Idaho Code. ()

15. Gain Sharing. This refers to the process of allocating extraordinary gains from the base plan into the defined contribution component of the PERSI plan as permitted in Section 414(k) of the Internal Revenue Code and as provided by Section 59-1309, Idaho Code, and these rules. ()

16. General Member. “General member” is a PERSI member not classified as a police officer, firefighter, paid firefighter, or school employee. ()

17. Likely. For the purpose of Section 59-1302(12)(b), Idaho Code, “likely” means with reasonable medical certainty. ()

18. Occupational Hazard. “Occupational Hazard” means an injury or ailment solely resulting from the work an applicant does or from the environment in which an applicant works. ()

19. Pension Protection Act Definitions. Solely for purposes of the implementation by PERSI of section 402(l) of the Internal Revenue Code, the following definitions apply: ()

a. Chaplain. Any individual serving as an officially recognized or designated member of a legally organized volunteer fire department or legally organized police department, or an officially recognized or designated public employee of a legally organized fire or police department who was responding to a fire, rescue, or police emergency. ()

b. Eligible Retired Public Safety Officer. An individual who, by reason of disability or attainment of normal retirement age, is separated from service as a public safety officer with the state agency, political subdivision or government entity who maintains the eligible retirement plan from which distributions are made. ()

c. Normal Retirement Age. The member’s age at the time that the member is eligible to retire with an unreduced benefit. ()

d. Public Safety Officer. An individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, as a firefighter, as a chaplain, or as a member of a rescue squad or ambulance crew. ()

20. Primary Employer. The primary employer is the state agency, political subdivision or government

entity from whom the employee receives the highest aggregate salary per month. ()

21. Public Employee Retirement System of Idaho. “Public Employee Retirement System of Idaho” or “PERSI” is the retirement system created by Chapter 13, Title 59, Idaho Code. ()

22. Required Beginning Date. The date specified in Section 508.02 of these rules. ()

23. Retiree. Retiree includes any member, contingent annuitant, or surviving spouse, receiving regular monthly allowances at the close of the fiscal year. It also includes members receiving a monthly disability retirement allowance, surviving spouses who elected an annuity option under Section 59-1361(5), Idaho Code, and members who were inactive at the close of the fiscal year but retire on or before the first day of January following the end of the fiscal year, retroactive to the first day of June of the fiscal year or earlier. ()

24. Service. For the purposes of Sections 536 and 539, “service” includes only service for which the member is normally in the administrative offices of the state agency, political subdivision or government entity or normally required to be present at any particular work station for the state agency, political subdivision or government entity. ()

25. Surviving Spouse. “Surviving spouse” is a person as defined in Section 15-2-802, Idaho Code. ()

26. Transportation Of Prisoners. “Transportation of prisoners” as used in Section 59-1303(3)(g), Idaho Code, means the employee’s primary responsibility is designated by court order to move prisoners from one (1) place to another. ()

005. -- 010. (RESERVED)

SUBCHAPTER A – PERSI RULES OF ADMINISTRATIVE PROCEDURE
Rules 011 through 099

011. OPT OUT OF ATTORNEY GENERAL’S RULES – TABLE.

PERSI declines to adopt the following Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01 as follows for the reasons listed:

Rules Promulgated by the Office of the Attorney General will be followed except the following sections of IDAPA 04.11.01 will be excluded	
151	PERSI procedure uses “petitioners” or “appellants” rather than “applicants” or “claimants.”
155	PERSI procedure uses “petitioners” rather than “protestants.”
156	PERSI procedure does not separately use intervention.
220	PERSI procedure uses “petitions” rather than “applications,” “claims” or “appeals.”
250	PERSI procedure uses “petitions” rather than “protests.”
350 - 399	PERSI procedure does not separately use intervention.
420 - 425	PERSI does not have a prosecutorial investigative function.
566	PERSI does not hold joint hearings.
730	PERSI statutes do not provide for preliminary orders.
741	PERSI has no authority to award costs or fees.

Rules Promulgated by the Office of the Attorney General will be followed except the following sections of IDAPA 04.11.01 will be excluded	
791.01.c.	The venue of all actions in which the Board is a party shall be Ada County, Idaho.” Idaho Code § 59-1305(1)
791.01.d.	The venue of all actions in which the Board is a party shall be Ada County, Idaho. Idaho Code § 59-1305(1)

()

012. – 099. (RESERVED)

SUBCHAPTER B – PERSI RULES FOR ELIGIBILITY
Rules 100 through 249

100. MANDATORY MEMBERSHIP.

Membership in PERSI is mandatory for all persons who meet the statutory definition of an “employee” in Section 59-1302(14), Idaho Code. ()

101. MULTIPLE EMPLOYERS -- MEMBERSHIP ELIGIBILITY.

An employee establishes separate PERSI membership eligibility with each state agency, political subdivision or government entity with which the employee meets the statutory definition of an “employee” as found in Section 59-1302(14), Idaho Code. ()

01. Does Not Meet the Statutory Definition. Because membership eligibility is established independently with each state agency, political subdivision or government entity, neither employer nor employee contributions are required on salary paid by employers to employees who do not meet the statutory definition of an “employee” as found in Section 59-1302(14), Idaho Code. ()

02. State Agencies. An employee working for more than one (1) state agency establishes eligibility based on the total hours of employment worked with all state agencies. ()

102. ELECTED AND APPOINTED OFFICIALS NOT SUBJECT TO TWENTY HOUR REQUIREMENT.

Elected and appointed officials are not subject to the hourly requirement of Section 59-1302(14)(A)(a), Idaho Code. ()

103. ELECTED AND APPOINTED OFFICIALS.

01. Hourly Requirement. Elected and appointed officials are not subject to the hourly requirement of Section 59-1302(14)(A)(a), Idaho Code. ()

02. Salary and Honorarium. Elected and appointed officials serving on boards, councils, or commissions who receive salary or honorarium for services performed are members of PERSI even though they receive nominal salary and do not normally work twenty (20) hours or more per week. ()

104. -- 110. (RESERVED)

111. TEACHER WORKING HALF-TIME OR MORE.

For the purposes of Section 59-1302(14)(A)(a), Idaho Code, a teacher is considered to be working half-time or more if the teacher’s contract specifies that the engagement is half or more of a full contract. Teachers and all other school employees not employed under such a contractual arrangement shall be required to meet the requirement of normally working twenty (20) hours or more per week. ()

112. RESPONSIBILITY OF EMPLOYER TO DETERMINE EMPLOYEE ELIGIBILITY.

It is the responsibility of each state agency, political subdivision or government entity to make the initial

determination of which employees within its jurisdiction meet the requirements of eligibility for membership and to withhold the required member contributions from salary paid. ()

113. NORMALLY WORKS TWENTY HOURS.

If a person works twenty (20) hours or more per week for more than one-half (1/2) of the weeks during the period of employment being considered, then the person meets the requirements of Section 59-1302(14)(A)(a), Idaho Code (“normally works twenty (20) hours or more per week”), and shall be considered an employee if the person meets the other requirements of Section 59-1302(14), Idaho Code. ()

114. APPLICATION OF THE FIVE MONTH REQUIREMENT.

An employee working twenty (20) hours or more per week who is hired with the expectation of working less than five (5) consecutive months, becomes retroactively eligible for membership and employee and employer contributions must be immediately withheld whenever it becomes evident the period of employment will be five (5) consecutive months or longer and the employee meets the other requirements of Section 59-1302(14), Idaho Code. Delinquent payments will be paid by the employer within three (3) months. Regular interest will be assessed against the outstanding balance at the rate provided in Section 59-1325, Idaho Code. ()

115. -- 120. (RESERVED)

121. CEASING TO BE AN EMPLOYEE.

A member ceases to be an employee on the day following the effective date that the member is separated from their employer. Membership service credits stop on the day the member ceases to be an employee. ()

122. LEAVE OF ABSENCE.

A member is ineligible to contribute and receive membership service credit while on leave of absence without pay or while on leave of absence with less than one-half (1/2) pay, unless the absence is occasioned by a worker’s compensation claim approved by a surety. An active member separated from employment under conditions where both the member and the employer plan a later return to employment should be placed on leave of absence without pay during the planned period of absence. ()

01. Employer and Employee Contributions -- Leave of Absence. During the leave of absence without pay, employer and employee contributions cease. If the member is on a leave of absence as a result of an approved worker’s compensation claim, employer and employee contributions are due and payable on any salary paid to the member. The member is entitled to a month of membership service credit for each month the member remains on leave of absence as a result of an approved worker’s compensation claim and receives salary in addition to income benefits. ()

02. Documentation of Leave of Absence. The employer shall provide PERSI with documentation, on a form provided by PERSI, of a leave of absence to clarify the member’s status and retirement benefit entitlement. ()

03. Status of Employee on Leave of Absence. An employee placed on a leave of absence by an employer remains in an employee status and is ineligible for payment of any separation benefits or for payment of a service, early, disability, or vested retirement allowance. If a member on leave of absence without pay terminates employment without returning to work, the leave without pay status is negated. ()

04. Leave of Absence -- Effect on Benefit Enhancement. An employee shall not be placed on a leave of absence without pay prior to the effective date of a benefit enhancement and then return to work after the effective date of the benefit enhancement for the purpose of qualifying for the benefit enhancement. An employee placed on unpaid leave of absence prior to the date of the benefit enhancement who returns to work after the effective date of the benefit enhancement and subsequently applies for retirement shall include with the application for retirement, certification from the state agency, political subdivision or government entity that the leave of absence was not granted for the purpose of allowing the person to qualify for the benefit enhancement. ()

123. -- 199. (RESERVED)

200. DETERMINATION OF FIREFIGHTER.

In addition to Section 59-1302(16), Idaho Code, the definition of a firefighter member for retirement purposes is an employee appointed to the position of fire chief by a city council but not eligible to be a “paid firefighter,” or the chief fire warden of a timber protective association, or is an employee of either the department of lands or of a timber protective association whose primary position and principal accountability in that position either requires direct supervision of employees engaged in the prevention, presuppression and suppression of wild land fires or requires the performance of those duties as the principal function of the position. A firefighter member for retirement purposes does not include an employee who may be required on occasion to engage in those functions as a secondary requirement of the position. ()

201. INCORRECT CLASSIFICATION OF FIREFIGHTER.

An employer or agency which believes that any position is incorrectly classified as a firefighter position or a non-firefighter position may petition the Board for inclusion or exclusion of such position as a firefighter position. Such petition shall be in writing and explain in detail the principal duties of the position. The Board will review the petition and evidence, together with such information and evidence as may be presented by the staff of PERSI. The Board may decide the matter based upon the information supplied, may request additional information, or may request an oral presentation before the Board. ()

202. PAID FIREFIGHTER EXCLUSION FROM RULES 200 AND 201.

The provisions of Sections 200 and 201 of this subchapter do not apply to a “paid firefighter” as defined by Sections 59-1391(f) or 72-1403(A), Idaho Code, or to any references to “firefighter” found in Title 72, Chapter 14, Idaho Code.

Statutory References: Sections 59-1302(16), 59-1391(f) and 72-1403, Idaho Code. ()

203. -- 249. (RESERVED)

**SUBCHAPTER C – PERSI GENERAL PROVISIONS, CONTRIBUTION RATE,
MISCELLANEOUS, AND INTEREST RATE RULES
Rules 250 through 374**

250. -- 302. (RESERVED)

303. EMPLOYEE CONTRIBUTIONS BASED ON GROSS SALARY.

Employee contributions shall be based on the employee’s total gross salary regardless of source or employer funds from which the employee is paid. ()

304. (RESERVED)

305. MULTIPLE EMPLOYERS -- CONTRIBUTION RATE.

If the employee has met eligibility requirements with more than one (1) employer that would result in different contribution rates, contributions shall be made at the rate for the member’s classification with the primary employer. ()

306. STATE EMPLOYEE CONTRIBUTIONS.

If an employee establishes membership with the state, the employee and each agency must make contributions on the employee’s salary regardless of the number of hours worked at each state agency. ()

307. POLICE OFFICER CONTRIBUTIONS WITHHELD INCORRECTLY.

If an employee’s contributions are withheld by an employer and received by PERSI at the rate established for police members on the presumption the certification required by Section 59-1303, Idaho Code, will be accepted, but if it is rejected, the employer shall adjust the employee’s contribution rate to a general member rate and PERSI shall return to the employer any excess employee contributions that have occurred. ()

308. CONTRIBUTIONS DUE WHILE MEMBER IS RECEIVING WORKER'S COMPENSATION.

01. Contributions Due and Payable. Contributions are due and payable on whatever percentage of salary is paid while the member is on a leave of absence occasioned by an approved worker’s compensation claim and the member will be entitled to a month of membership service credit for each month the member remains

eligible. ()

02. Accruing Service. This means for an employee to continue accruing service the employer must continue to pay salary equal to the lesser of: ()

a. The amount necessary to meet the statutory definition of employee (half-time at the pre-injury rate or more), or ()

b. The employee's full-time salary less the employee's worker's compensation income benefit. ()

309. VACATION AND CONTRACTUAL PAYMENTS SUBJECT TO CONTRIBUTIONS.

Compensation paid for vacation or remaining contractual payments is salary subject to employee and employer contributions and earns membership credit through the effective date of separation from employment at the usual rate of compensation. ()

310. -- 349. (RESERVED)

350. REGULAR INTEREST.

Regular interest for each calendar year shall be the greater of ninety percent (90%) of the rate of return on the PERSI fund net of all expenses for the fiscal year ending immediately prior to the calendar year as reported in the actuary's annual valuation report or one percent (1%). ()

351. INTEREST – MEMBER CONTRIBUTIONS.

Regular interest as defined in Section 59-1302(26), Idaho Code, shall accrue to and be credited monthly to a member's accumulated contributions. ()

352. REINSTATEMENT INTEREST.

Reinstatement interest for each calendar year shall equal the average of the prime rate on June 30 of the latest three (3) years, plus one percent (1%). For purposes of this rule, the prime rate is the "prime rate" listed in the "Money Rates" section of the Wall Street Journal on June 30, or in the event no rate is listed on June 30, on the latest date preceding June 30 for which a prime rate is listed. Unless otherwise provided by statute or rule, reinstatement interest shall apply to all amounts owed to the fund. ()

353. -- 374. (RESERVED)

SUBCHAPTER D – PERSI DISABILITY RULES
Rules 375 through 499

375. -- 399. (RESERVED)

400. APPLYING FOR DISABILITY RETIREMENT.

Eligible members may apply for disability retirement by completing a required form available from any PERSI office. The application process may include an interview by a PERSI representative. Applicants must release all medical records and information to PERSI. The hours worked to qualify as an employee as defined in Section 59-1302(14), Idaho Code, is inapplicable for purposes of determining disability. ()

401. (RESERVED)

402. DISABILITY ASSESSMENT REVIEW.

Applicants will be assessed to determine whether they qualify for disability retirement under the applicable standard. The assessment may include without limitation, records review, medical and psychological examinations, vocational assessments, or any combination thereof as determined by PERSI. Failure to timely comply with any request made by PERSI during the assessment process shall result in automatic denial of disability retirement. At the conclusion of the assessment process, PERSI will notify applicants in writing whether or not they qualify for disability retirement. ()

403. RECONSIDERATION OF DISABILITY ASSESSMENT DECISION.

Applicants who are denied disability retirement as a result of an adverse disability assessment decision, and wish to contest that decision, are required to participate in a reconsideration process. A request for reconsideration must be made within thirty (30) days of the issuance of the disability assessment decision. Any additional information the applicant wishes to be considered must be submitted to PERSI within thirty (30) days of the request for reconsideration. The additional information will be reviewed and a reconsideration decision will be issued in writing to the applicant. ()

404. ADMINISTRATIVE REVIEW OF THE RECONSIDERATION DECISION.

A reconsideration decision shall be considered a final decision under Section 59-1314(2), Idaho Code, and may be appealed to the Board for review. In any related administrative hearing, the applicant shall be limited to presenting facts and evidence made available to PERSI in the reconsideration process. No new or additional evidence may be presented at the hearing. If the applicant has additional facts or evidence that were not made available to PERSI during the assessment or reconsideration process, the applicant must submit a new application for disability retirement, proceed again through the assessment process, and pay the costs associated with the second or subsequent assessment process. ()

405. DELEGATION.

PERSI may, by contract or otherwise, delegate all or part of these processes to third parties. Where such delegation has been made, the term "PERSI" includes those third parties. When a member requests the resumption of a disability retirement allowance pursuant to Section 59-1354A, Idaho Code, the board may delegate its authority under Section 59-1354A, Idaho Code, to a third party. Where such delegation has been made, the term "Board" includes those third parties. ()

406. REASSESSMENT OF DISABILITY RETIREES.

Disability retirees are subject to reassessment of their disability at any time to determine whether they continue to be disabled under the standard in Section 59-1302(12), Idaho Code. However, pursuant to Section 59-1302(12)(b), Idaho Code, after two (2) years of continuous disability retirement, a disability retiree is not required to undergo medical examinations more often than every twelve (12) months. Disability retirees who are notified that they have been selected for reassessment are under the same obligation as applicants to supply information. ()

407. ATTORNEY'S FEES AND COSTS.

Attorney's fees and costs incurred by an applicant in his efforts to obtain disability retirement are the sole responsibility of the applicant and shall not be paid by PERSI except for fees related to judicial review for which applicant is found to be entitled under applicable law. ()

408. -- 424. (RESERVED)

425. BURDEN ON APPLICANT.

Applicant must demonstrate that, on or before applicant's last day of employment, he was disabled under the disability standard. The last day of employment is the last day applicant earned compensation, including annual leave and sick leave. When a member requests the resumption of a disability retirement allowance pursuant to Section 59-1354A, Idaho Code, the member must demonstrate that he could not successfully return to work because of the same disability on which his disability retirement was based. ()

426. STATUTORY STANDARD.

In applying the disability standard in Section 59-1302(12), Idaho Code, substantially all avenues of employment are reasonably closed if the applicant is permanently prevented, due to bodily injury or disease, from performing every substantial and material duty of any occupation for which the applicant is reasonably qualified by education, training or experience. ()

427. (RESERVED)

428. HIRE-ABILITY OF APPLICANT.

The inability of the applicant to secure employment in and around the area where the applicant resides is not considered in determining whether or not the applicant is disabled. If the applicant is able to perform every substantial and material duty of any jobs existing in the economy for which the applicant is reasonably qualified by

education, training or experience, the applicant will not be considered disabled regardless of other factors that might affect the applicant's ability to actually secure employment, such as employer decisions and practices or the fact that there are no open positions or that the applicant is not selected for those positions. ()

429. -- 449. (RESERVED)

450. COMMENCEMENT AND DURATION OF DISABILITY ALLOWANCE.

The commencement and duration of payment of disability benefits is governed by Section 59-1354, Idaho Code. For purposes of Section 59-1354(1)(b), Idaho Code, a member "becomes eligible" on the first of the month following the date selected by the member which follows the date on which the member is unable to and thereafter does not return to work on a regular basis for two (2) consecutive weeks but not later than the date on which the member ceases to make contributions. ()

451. DETERMINING WORKER'S COMPENSATION OFFSET.

To determine the offset required by Section 59-1353, Idaho Code, the amount payable under the provisions of any worker's compensation law which represents income benefits as defined in Section 72-102, Idaho Code, shall be converted to a monthly equivalent and deducted from the monthly retirement allowance. ()

452. EFFECT OF UNUSED SICK LEAVE ON DISABILITY ALLOWANCE.

Unused sick leave entitlement provided for by either Section 33-1228, 33-2109A, or 67-5339, Idaho Code, shall not be considered salary or compensation in the application of Section 59-1354(1), Idaho Code. ()

453. -- 474. (RESERVED)

475. APPLICATION OF THIS SUBCHAPTER TO FRF DISABILITY RETIREMENT.

All the provisions of this subchapter, except Sections 375, 376, 406, 426, 427, 451 and 452, apply also to applications for disability retirement under the FRF plan to the extent they do not conflict with the provisions of Title 72, Chapter 14, Idaho Code. ()

476. -- 499. (RESERVED)

SUBCHAPTER E – PERSI SEPARATION FROM SERVICE RULES
Rules 500 through 524

500. REPAYMENT OF SEPARATION BENEFITS -- EMPLOYEE STATUS.

Repayment of a separation benefit must commence while the member is an employee, as defined in Section 59-1302(14), Idaho Code. For purposes of this rule the term employee includes employees accruing benefits under the Department of Employment Retirement Plan, the Firefighters' Retirement Fund, and the Policeman's Retirement Fund. ()

501. INTEREST ACCRUAL AND CALCULATION ON SEPARATION BENEFITS.

Repayment of separation benefits as provided in Section 59-1360, Idaho Code, for employees whose most recent date of reemployment is after January 23, 1990, shall include payment of interest that shall accrue from the date each separation benefit was issued. Repayment of separation benefits as provided in Section 59-1360, Idaho Code, for employees whose most recent date of reemployment is before January 23, 1990, shall include payment of interest as determined by the law, statutes and rules in effect on the date of last reinstatement to employee status, except as provided in Section 502 of this subchapter. ()

502. REPAYMENT OF SEPARATION BENEFITS BY EMPLOYEES PREVIOUSLY PRECLUDED FROM REPAYMENT.

Any employee who was precluded from repaying a separation benefit due to the fact they failed to meet the requirements of Section 59-1360, Idaho Code, may reinstate their previous credited service by repaying the full amount of their accumulated contributions provided such repayment includes payment of regular interest accruing from the date of each such separation benefit payment. ()

503. METHODS OF REPAYMENT OF SEPARATION BENEFITS.

01. Periodic and Lump-Sum Payments. Where an active member elects to repay a separation benefit to reinstate previous service as provided in Section 59-1360, Idaho Code, the member may request that repayment be made in periodic payments or in a lump-sum payment. No service will be reinstated until the full repayment has been made. ()

02. Repayments Initiated on or After March 1, 2000. For all repayments initiated on or after March 1, 2000, except as provided in Section 501 of this subchapter, a repayment amount will be determined which shall be the sum of the separation benefit(s) plus regular interest from the date of the benefit payment(s) until the date of the first payment. The repayment amount will be amortized over the repayment period at the reinstatement rate in effect on the date of the first periodic payment. ()

03. Repayments Initiated Before March 1, 2000. For all periodic repayments initiated before March 1, 2000, a repayment amount will be determined which shall be the sum of the separation benefit(s) plus regular interest from the date of the benefit payment(s) until the date of the first payment. The repayment amount will be amortized over the repayment period at four point seventy-five percent (4.75%) interest. This is a grandfathered rate based on the rate in effect December 31, 1999, and will apply so long as payments exceed interest charges on a calendar year basis. If payments fail to exceed interest charges in any calendar year, the grandfathered rate will be forfeited and replaced by the reinstatement rate beginning in January immediately after the year in which the failure occurs. For purposes of these rules, a repayment is initiated by signing an agreement and making a payment. ()

04. Repayments Under Section 59-1331(2), Idaho Code. For (waiting period) payments made pursuant to Section 59-1331(2), Idaho Code, the repayment amount is the sum of contributions that would have been made plus regular interest from December 31, 1975 until the date of the first payment. The repayment amount will be amortized over the payment period at the reinstatement rate in effect on the date of the first periodic payment. ()

504. IN-SERVICE TRANSFERS TO REINSTATE SERVICE.

To the extent permitted by federal law, and in accordance with any regulation or other guidance issued by the Internal Revenue Service, an active member may transfer funds from a 401(k), a 403(b), or an eligible 457(b) plan, in which they are currently eligible to participate, to the Base Plan for purposes of buying back service previously forfeited due to receiving a separation benefit, purchasing service related to eligible waiting periods, or purchasing service for periods of delinquent contributions. ()

505. (RESERVED)

506. ROLLOVERS ACCEPTED INTO THE BASE PLAN.

The PERSI Base Plan will accept participant rollover contributions and direct rollovers of distributions made after December 31, 2001, for purposes of reinstating or purchasing service as permitted under the plan, from the following plans. No after-tax contributions may be rolled over into the Base Plan. ()

01. Qualified Plans. A qualified plan described in section 401(a) or 403(a) of the Internal Revenue Code (Code). ()

02. Annuity Contracts. An annuity contract described in section 403(b) of the IRS Code. ()

03. 457 Plans. An eligible plan under section 457(b) of the IRS Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. ()

04. IRAs. Any portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the IRS Code that is eligible to be rolled over and would otherwise be includable in gross income. ()

507. DIRECT ROLLOVERS OUT OF THE BASE PLAN.

A direct rollover is a payment by the plan to an eligible retirement plan specified by the distributee. ()

01. Rollover Election. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this part, a distributee may elect, at the time and in the manner prescribed by the

plan administrator, to have any portion of an eligible rollover distribution that is equal to at least five hundred dollars (\$500) paid directly to an eligible retirement plan specified by the distributee in a direct rollover. ()

02. Eligible Rollover Distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: ()

a. Any distribution that is one (1) of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; ()

b. Any distribution to the extent such distribution is required under section 401(a)(9) of the IRS Code); ()

c. Any amount that is distributed on account of hardship; ()

d. The portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and ()

e. Any other distribution(s) that is reasonably expected to total less than two hundred dollars (\$200) during a year. ()

03. After-Tax Contributions. For purposes of the direct rollover provisions in Subsection 507.02, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includable in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the IRS Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the IRS Code that agrees to separately account for the amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable. ()

04. Eligible Retirement Plan. An eligible retirement plan is an individual retirement account described in section 408(a) of the IRS Code, an individual retirement annuity described in section 408(b) of the IRS Code, a Roth IRA described in Section 408A of the IRS Code, an annuity plan described in section 403(a) of the IRS Code, an annuity contract described in section 403(b) of the IRS Code, an eligible plan under section 457(b) of the IRS Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan, or a qualified plan described in section 401(a) of the IRS Code, that accepts the distributee's eligible rollover distribution. ()

05. Alternate Payees. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse, who is the alternate payee under a domestic retirement order, approved as provided in Sections 59-1319 and 1320, Idaho Code, are distributees with regard to the interest of the spouse or former spouse. ()

508. REQUIRED MINIMUM DISTRIBUTIONS.

01. Default Application of Federal Requirements. With respect to distributions under the Base Plan, and except as provided in Subsection 508.06, the Plan will apply the minimum distribution requirements of section 401(a)(9) of the IRS Code in accordance with a good faith interpretation of section 401(a)(9), notwithstanding any provision of the Base Plan to the contrary. ()

02. Required Beginning Date. Except as otherwise provided in Subsections 508.04 through 508.08, distributions under the Base Plan shall begin not later than April 1 following the later of (a) the commencement year or (b) the year in which the member retires. For purposes of Section 508, the "commencement year" is the calendar year in which the member reaches the applicable age, as defined in Internal Revenue Code Section 401(a) as now in effect and thereafter amended. ()

03. PERSI Selects Retirement Option. Any member required to take minimum distributions, as provided in this Section 508, and fails to complete and submit an approved retirement application and select either a regular or optional retirement allowance by April 1 following the later of (a) the commencement year or (b) the year in which the member retires shall be deemed to have made the following selection: ()

a. If single, a regular retirement allowance and no other selection shall be required or permitted. ()

b. If married, Option 1 and no other selection shall be required or permitted, unless proof is provided that spouse has no community property interest in the benefit. ()

04. Lifetime Distributions. Distribution shall be made over the life of the participant or the lives of the participant and his beneficiary; or over a period certain not extending beyond the life expectancy of the member or the joint life and last survivor expectancy of the member and his beneficiary. ()

05. Timing of Required Distributions. A required distribution shall be deemed to have been made during the commencement year if actually made by the following April 1, but such delayed distribution shall not change the amount of such distribution, and the distribution otherwise required during the subsequent calendar year shall be calculated as if the first distribution had been made on the last day of the commencement year. ()

06. Adjustment of Required Distributions. Benefits paid prior to the commencement year shall reduce the aggregate amount subject to (but shall not otherwise negate) the minimum distribution requirements described herein. ()

07. Benefits Deferred Beyond Service Retirement. The first payment of benefits of an inactive member following deferment beyond service retirement will be in a lump sum that includes payment for those months of service dating from the date of service retirement when a monthly retirement payment would have started through the current monthly payment. Subsequent payments will be for the monthly retirement allowance only. ()

08. Death Benefits. All death benefits payable under the Base Plan will be distributed as soon as administratively practicable after request, but must in any event be distributed within fifteen (15) months of the member's death, unless the identity of the beneficiary is not ascertainable. ()

509. TRANSFERS TO NON-SPOUSE BENEFICIARIES.

Notwithstanding any other provision of the Base Plan to the contrary that would otherwise limit the options of the beneficiary of a deceased member who is not the member's spouse, the administrator shall, upon the request of such a beneficiary, transfer a lump sum distribution to the trustee of an individual account established under Section 408 of the IRS Code in accordance with the provisions of Section 402(e)(11) of the IRS Code. ()

510. -- 524. (RESERVED)

SUBCHAPTER F – PERSI RETIREMENT RULES
Rules 525 through 649

525. AVERAGE MONTHLY SALARY COMPUTATION -- EQUITABLE TREATMENT -- DIFFERENT WORK PERIODS.

Equitable treatment for all members can be achieved only if members whose career patterns covering the same time frame and who received identical annual salaries during each of the twelve-month periods of that time frame accrue the same monthly service retirement allowance. To achieve this equity for the member whose annual salary has been paid on other than a twelve-month salary schedule during any contractual or like twelve-month period, the average monthly salary used for each one of those twelve-month periods will be determined from the total base period salary by using a divisor representing the months of membership service which would have been accumulated at that rate over a full base period. ()

526. UNUSUAL COMPENSATION PATTERN EFFECT ON RETIREMENT CALCULATION.

Upon application for a retirement benefit, any portion of compensation which represents payments in excess of and inconsistent with the usual compensation pattern, for example, but not limited to lump sum contract payouts, excess vacation paid but not taken, paid sick leave, or a clothing allowance. ()

527. MAXIMUM RETIREMENT ALLOWANCE (RULE 111).

If the amount of a member's initial retirement allowance on the date of retirement would exceed the average salary during the member's highest thirty-six (36) consecutive calendar months of salary, then the member's initial retirement allowance will be limited to the greater of: the average salary during the highest thirty-six (36) consecutive calendar months of salary; or the initial retirement allowance based on credited service through April 1990. Optional retirement allowances will be computed after any limitation above has been applied. ()

528. MEMBER NOTIFIED OF AVAILABLE RETIREMENT OPTIONS PRIOR TO BOARD APPROVAL.

The Retirement Board shall not act on any application for retirement unless the member has previously been provided with notification of the regular retirement option and options one (1) and two (2) election available to the member including the value of the monthly allowance of each. The value of options three (3) and four (4) will be provided if the member so requests the value of the option and provides information required to calculate that option (such as but not limited to social security benefit estimates) which is not available to PERSI but that can be provided by the member. ()

529. -- 530. (RESERVED)

531. RETIREMENT APPLICATIONS.

Except as provided in this rule, a member is required to complete and submit an approved retirement application and select either a regular or optional retirement allowance. The member's signature must be notarized. The application for retirement indicating the election made by the retiring member shall also be signed by the spouse certifying the spouse understands and consents to the election made by the member. The spouse's signature must be notarized. Until an application for retirement is filed, no benefit payment is required. Applications with retroactive retirement dates are entitled to lump sum payments and do not include interest. ()

532. (RESERVED)

533. ELECTED OR APPOINTED OFFICIAL WORKING FOR MULTIPLE STATE AGENCIES, POLITICAL SUBDIVISIONS OR GOVERNMENT ENTITIES.

An active member separated from employment by one (1) state agency, political subdivision or government entity for whom he or she did normally work twenty (20) hours or more per week and who is age sixty-two (62) or older and eligible to retire but remains an elected or appointed official with a different state agency, political subdivision or government entity, may retire and continue in that elected or appointed position provided that position is one in which he or she does not normally work twenty (20) hours or more per week. The member shall receive retirement allowances under the conditions provided by Section 538. ()

534. ELECTED OR APPOINTED OFFICIAL RETIRING IN PLACE.

An active member serving as an elected or appointed official who does not normally work twenty (20) hours or more per week who is age sixty-two (62) or older and eligible to retire and who is not an eligible employee with another state agency, political subdivision or government entity pursuant to Section 101 may then retire and continue in that position. The member shall receive retirement allowances under the conditions provided by Section 538. ()

535. (RESERVED)

536. RETIRED MEMBER BECOMING AN ACTIVE MEMBER.

01. Return to Service. A PERSI retired member employed in a position which involves service of normally twenty (20) hours or more per week for a period of five (5) or more consecutive months or longer will return to the status of an active member. Retirement benefits will suspend on reemployment and employee and employer contributions will resume to provide additional retirement credits. If a retired member is reemployed in a position which involves service of twenty (20) hours or more per week for a period of less than five (5) consecutive months, their monthly retirement benefits will continue to be paid. If the member's reemployment should equal or

exceed the five (5) month period for any reason, the member will be required to repay the retirement benefits paid during the five (5) month period which they were reemployed and they will return to the status of an active member. Employee and employer contributions will be due for the five (5) consecutive month period. ()

537. REEMPLOYMENT LESS THAN FIVE CONSECUTIVE MONTHS.

If the period of reemployment develops to be less than five (5) consecutive months, contributions will be refunded and retirement allowances will resume as of the date they were discontinued. ()

538. REEMPLOYMENT -- WORKING LESS THAN TWENTY HOURS OR LESS THAN FIVE CONSECUTIVE MONTHS.

Monthly retirement allowances will continue to be paid to the PERSI retired member who returns to employment in a position where the member does not normally work twenty (20) hours or more per week or the reemployment is for a period which does not total five (5) consecutive months and the state agency, political subdivision or government entity so certifies. In such cases, employee and employer contributions are neither required nor acceptable and no new retirement credits can be earned. ()

539. RETIRED MEMBER BECOMING AN ELECTED OR APPOINTED OFFICIAL.

A PERSI retired member who is subsequently elected or appointed by an employer to public office and who is not normally required to perform services of twenty (20) hours or more per week in that position may continue to receive retirement allowances in the status of a reemployed retired member under conditions outlined by Section 537. ()

540. SEPARATION FROM EMPLOYMENT AFTER REEMPLOYMENT.

Upon subsequent separation from employment after reemployment, the member's original monthly retirement allowance will resume with appropriate cost-of-living adjustments plus the addition of a separate allowance computed with respect to salary and service credited during the reemployment period. ()

541. EARLY RETIREMENT MEMBER -- REEMPLOYMENT.

A PERSI member who had been receiving an early retirement allowance and who returns to employment as an active member may refund all retirement benefits previously paid plus regular interest accrued from the date each monthly allowance had been paid, thereby negating the previous retirement status. The month of last contribution prior to the negated retirement and the month of initial contribution upon return to active membership shall be considered consecutive months of contributions in the determination of an appropriate salary base period upon subsequent retirement. ()

542. BENEFIT ENHANCEMENT -- QUALIFICATION.

To qualify for a benefit enhancement, a person must remain an active member through the day following the effective date of the enhancement. ()

543. – 544. (RESERVED)

545. PRE-ERISA VESTING RULES.

01. Termination or Partial Termination. Upon the effective date of any termination or partial termination or upon a complete discontinuation of contributions: ()

a. No persons who were not theretofore members shall be eligible to become members; ()

b. No further benefits shall accrue; and ()

c. The accrued benefits of all members not theretofore vested and not theretofore forfeited shall immediately become fully vested. ()

546. FORFEITURES.

Forfeitures will not be applied to increase the benefits any employee would otherwise receive under the Base Plan. ()

547. ACTUARIAL ASSUMPTIONS TO BE SPECIFIED.

Whenever the amount of any Base Plan benefit is to be determined on the basis of actuarial assumptions, such assumptions will be specified in rule in a manner that precludes employer discretion. ()

548. (RESERVED)

549. DEFINED BENEFIT DOLLAR LIMITATION.

The “maximum permissible benefit” is the defined benefit dollar limitation (adjusted where required, as provided in Subsection 549.01 and, if applicable, in Subsections 549.02 through 549.04 of these rules). ()

01. Less Than Ten Years of Service. If the participant has fewer than ten (10) years of participation in the plan, the defined benefit dollar limitation shall be multiplied by a fraction: ()

a. The numerator of which is the number of years (or part thereof) of participation in the plan; and ()

b. The denominator of which is ten (10). ()

02. Benefit Begins at Age Sixty-Five. If the benefit of a participant begins after the participant attains age sixty-five (65), the defined benefit dollar limitation applicable to the participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the participant at age sixty-five (65) (adjusted under Subsection 549.01, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age sixty-five (65) is determined as set forth in IRS regulation under section 415(b)(2) of the IRS Code. ()

03. Transition. Benefit increases resulting from the increase in the limitations of section 415(b) of the IRS Code shall be provided to all current and former participants (with benefits limited by section 415(b)) who have an accrued benefit under the plan immediately prior to the effective date of this Section (other than an accrued benefit resulting from a benefit increase solely as a result of the increases in limitations under section 415(b)). ()

550. COMPUTATION OF BENEFITS FOR EMPLOYEES OF WITHDRAWN EMPLOYER.

01. PERSI’s Responsibility. PERSI’s responsibility to a withdrawing political subdivision or governmental entity or its employees is limited to the vested accrued actuarial benefits of the system’s members upon the date of complete withdrawal. ()

02. Withdrawal Liability Calculations. On the occasion that a withdrawing political subdivision or governmental entity fails to pay, in full with accrued interest from date of withdrawal, the withdrawal liability calculated in accordance with Section 59-1326(7), Idaho Code, PERSI shall exhaust all efforts to collect the outstanding withdrawal liability as follows: ()

a. Collect the full withdrawal liability from withdrawing political subdivision or governmental entity at date of withdrawal. If full withdrawal liability is not paid, then; ()

b. Contract with withdrawing political subdivision or governmental entity, in accordance with section 59-1326(9) and file a lien on the assets of the withdrawing political subdivision or governmental entity. If scheduled payments are not timely made or assets are insufficient or unavailable, then; ()

c. PERSI will pursue collection efforts against the authorizing state agency, political subdivision or governmental entity that caused the withdrawing political subdivision or governmental entity to be formed. If these collection efforts are ineffective, then; ()

d. PERSI will cause an actuarial study to be performed for the withdrawing political subdivision or governmental entity and its employees to determine the actuarial value of the accrued benefits at time of withdrawal and will reduce an employee’s benefit to match funded status. ()

551. COMPUTING VALUE OF SICK LEAVE.

For those members who accrue sick leave based upon each month of service, the rate of pay for purposes of computing the monetary value of a retired member's unused sick leave as outlined in Sections 59-1365, 67-5333, and 33-2109A, Idaho Code, shall be the base hourly rate of compensation reported by the employer during the month of separation from employment prior to retirement, not including any temporary increases, bonuses, or payoffs. For those members employed on a contract basis under Section 33-1228, Idaho Code, the rate of pay for purposes of computing the monetary value of a retiring member's unused sick leave based upon each month of service shall be determined at a daily rate by dividing the annual contract amount by the required days of work. No temporary increases, bonuses or payoffs shall be included in the contract amount. Where the daily rate is affected by changes in the work week such as adoption of a four (4) day work week or similar events, adjustments shall be made to convert the daily rate to maintain equity within the pool. No other forms of leave may be converted to sick leave or otherwise considered in computing the value of unused sick leave. ()

552. SICK LEAVE FUNDING RATES.

The sick leave pools shall be funded by employer contributions as follows: ()

01. State Agencies and Junior College Districts. All employer groups participating in the pools established by Sections 33-2109A and 67-5333, Idaho Code, shall contribute point sixty-five percent (.65%) of employee covered payroll. ()

02. Schools. All employer groups participating in the pool established by Section 33-1228, Idaho Code, shall contribute the percentage of employee covered payroll based on the number of days of paid sick leave permitted during the contract year for certified teachers as set forth in the following table:

Beginning:	July 1, 2006
9-10 days	1.16%
11-14 days	1.26%
More than 14 days	Individual rate to be set by the Retirement Board based on current cost and actuarial data and reviewed annually

Where a four (4) day work week or similar policies have been adopted, adjustments shall be made to convert the number of days of paid sick leave to the contribution level necessary to maintain equity within the pool. ()

03. Subdivisions. All political subdivision or government entity groups participating in the pool established by Section 59-1365, Idaho Code, shall make contributions as provided in Section 578. ()

553. LIMITATION ON INSURANCE PROGRAMS.

The health, accident, and life insurance programs maintained by state agencies, political subdivisions or government entities as outlined in Sections 59-1365, 33-1228, and 33-2109A, Idaho Code, are limited to plans where the policy holder is the state agency, political subdivision or government entity or a consortium of state agencies, political subdivisions or government entities. Insurance programs outlined in Section 67-5333, Idaho Code, shall be maintained by the state agency, political subdivision or government entity. The board may require plans to sign an agreement before participating. ()

554. PAYMENT OF INSURANCE PREMIUMS.

Upon certification by the state agency, political subdivision or government entity and the insurance carrier that a plan qualifies under Section 553 of this subchapter, the board may pay the monthly premiums for a retired member using unused sick leave account funds as prescribed by Idaho Code. ()

01. Adjustments. Coverage and premium changes or adjustments must be submitted to PERSI no less than thirty (30) days prior to their effective date unless PERSI has previously agreed in writing to a shorter period. ()

02. Duration of Payments. Premium payments will continue to be made from the unused sick leave account until credits are insufficient to make a premium payment, or until the retiree's death, whichever first occurs. ()

555. SEPARATION BY REASON OF RETIREMENT.

Unused sick leave benefits are credited only to employees who are eligible to retire at the time they separate from the state agency, political subdivision or government entity. When an employee separates from service and does not immediately retire, unused sick leave benefits are credited to the member but not available for use unless the member actually retires without intervening employment resulting in PERSI participation. The existence of available unused sick leave credits does not necessarily mean they are usable. A member must also be eligible to participate in the retiree plan offered by the state agency, political subdivision or government entity from which the member retired. Except for school district employees transferring from one (1) district to another, unused sick leave credits may not be transferred from one (1) state agency, political subdivision or government entity to another. If a member negates their retirement under Section 541 and returns to work for a new PERSI state agency, political subdivision or government entity, unused sick leave credits are also negated and eligibility for unused sick leave credits must be reestablished with the new state agency, political subdivision or government entity. ()

556. PROHIBITION AGAINST CASH OPTION.

All state agencies, political subdivisions or government entities participating in any PERSI administered sick leave pool are prohibited from offering or permitting any employee to convert unused sick leave to cash, other forms of leave, or any other benefit, even if the employee is not eligible to receive credits. Failure to comply with this prohibition will result in the state agencies, political subdivisions or government entities inability to participate in PERSI administered unused sick leave pools. ()

557. -- 575. (RESERVED)

576. PARTICIPATION IN SUBDIVISION UNUSED SICK LEAVE POOL.

Any PERSI state agency, political subdivision or government entity meeting the following requirements may elect to participate in the unused sick leave pool authorized by Section 59-1365, Idaho Code: ()

01. No Current Plan. The state agency, political subdivision or government entity does not participate in any other statutorily created plan that offers benefits for unused sick leave, including but not limited to, those plans created under Sections 33-1228, 33-2109, and 67-5333, Idaho Code. ()

02. All Inclusive Participation. All of a participating state agencies, political subdivisions or government entities employees who are PERSI members and who accrue sick leave must be participants in the plan, except that state agencies, political subdivisions or government entities may exclude certain distinctive classes of employees for legitimate business reasons. For example, a city could exclude employees covered by a collective bargaining agreement, or a county may choose to exclude elected officials. ()

03. No Other Options for Unused Sick Leave. No employee may be given any option to receive benefits from unused sick leave other than through this plan. For example, no employee, other than those properly excluded under Subsection 576.02, may be given the option of exchanging sick leave for cash or other forms of payment or leave. ()

04. Fixed Annual Accrual of Sick Leave. State agency, political subdivision or government entity must comply with a policy that offers a fixed amount of sick leave annually that is applicable to all employees or employee groups. A "personal leave" option that fails to distinguish between sick, vacation, or other forms of leave is not permitted. ()

05. Medicare Eligible Retirees. State agencies, political subdivisions or government entities plan must provide coverage to all retired employees eligible for unused sick leave credits, including retirees that become Medicare eligible. ()

06. Annual Application. State agency, political subdivision or government entity must annually update and submit an application for participation in the Subdivision Unused Sick Leave Pool on the form prescribed by PERSI. ()

577. OPERATION OF SUBDIVISION POOL.

Upon separation from employment by retirement, in accordance with Chapter 13, Title 59, Idaho Code, every

employee of a participating state agency, political subdivision or government entity shall, upon payment by the state agency, political subdivision or government entity under Section 578, receive a credit for unused sick leave in the same manner and under the same terms as provided in Section 67-5333(1), Idaho Code. ()

578. FUNDING OF SUBDIVISION POOL.

Participating state agencies, political subdivisions or government entities shall, within ten (10) days of retiree's last day in pay status, pay to PERSI a sum equal to the retiree's unused sick leave credit, together with any administrative fees the board may require. Investment earnings on funds paid into this pool will remain in the pool, together with any reversions due to the death of a retiree, and may be used by the board to pay some or all administrative costs. ()

579. TERMINATION, WITHDRAWAL, OR REMOVAL FROM SUBDIVISION POOL.

Any state agency, political subdivision or government entity failing to meet the requirements of participation provided by Section 576 shall be terminated from participation in the Subdivision Pool. Any state agency, political subdivision or government entity failing to meet the funding requirements provided by Section 578 shall be terminated from participation in the Subdivision Pool, provided however, a state agency, political subdivision or government entity may submit a detailed explanation for its failure to meet the funding requirements as required in Section 578 and subject to PERSI approval. State agencies, political subdivisions or government entities that have withdrawn or have been terminated shall not be allowed to rejoin. ()

580. -- 600. (RESERVED)

601. FIREFIGHTER RETIREMENT ALLOWANCE.

Notwithstanding Sections 525 and 526 of this subchapter, the retirement allowances of firefighter members, as defined by Section 59-1391(b), Idaho Code, shall be determined pursuant to the provisions of Chapter 14, Title 72, Idaho Code. ()

602. REEMPLOYMENT OF RETIRED FRF FIREFIGHTER.

A paid firefighter retired under the provisions of Chapter 14, Title 72, (FRF), Idaho Code, who returns to employment as a paid firefighter with the same fire department from which retired shall be considered reemployed in the manner provided for PERSI members by Section 59-1356(1), Idaho Code. Retirement benefits shall then terminate and contributions shall again commence under conditions specified prior to retirement. The terminated benefit shall resume upon subsequent retirement with adjustments made in the manner prescribed by Section 59-1356(1), Idaho Code, as they would apply to the member's retirement benefit entitlement computed under the provisions of Chapter 14, Title 72, Idaho Code. ()

603. -- 624. (RESERVED)

625. PURCHASE OF SERVICE GENERALLY.

No member may purchase more than forty-eight (48) months of membership service, whether purchased under Section 59-1362, or 59-1363, Idaho Code, or a combination thereof. In all cases, the cost of purchasing service shall be the full actuarial costs, as determined by the board, of providing additional benefits resulting from the purchased service. Service may only be purchased at the time of retirement. In no event can a member revoke a purchase of service after payment has been made. ()

626. TIME OF RETIREMENT.

Within ninety (90) days before a member's effective date of retirement, the member may request the cost of service to be purchased. Costs provided for purchased service are valid only for the effective date requested. Purchased service will be calculated into the member's benefit only to the extent that it is paid by the effective date. In no event shall service be credited for which payment has not been made. Service may be purchased with after-tax dollars or with eligible rollover distributions. The member's service class at the time of purchase determines the class of service that may be purchased. ()

627. RETIREMENT DELAYED OR NEGATED AFTER PURCHASE.

If a member purchases service and thereafter revokes their application for retirement or negates their retirement as provided in Rule 541, the contributions made to purchase the service shall remain in the system until a distributable event occurs. If the distributable event results in payment of a monthly retirement benefit or an optional death benefit,

the purchase price of the service previously purchased will be recalculated based on factors existing on the date the new benefit becomes effective. If, based on the new factors, the purchase price is higher than previously determined, the number of months purchased will be reduced to reflect the higher cost unless the member elects to pay the difference. If the purchase price is lower, the difference will be paid to the member as a lump-sum payment within sixty (60) days after the date of retirement unless the member elects to convert the difference into additional months and can do so without exceeding the forty-eight (48) month limit, the IRS limit referenced in Subsection 705.05, or any other statutory limitation, including the limitation in Section 59-1342(6), Idaho Code. ()

628. TREATMENT OF PURCHASE OF SERVICE CONTRIBUTIONS.

Contributions made for purposes of purchasing service, and interest earnings thereon, are not considered for purposes of determining death benefits under Section 59-1361(3), Idaho Code, and distributions under Section 59-1309(5), Idaho Code. When determining death benefits under Section 59-1361(3), Idaho Code, first calculate two hundred percent (200%) of accumulated contributions, excluding contributions and interest related to purchased service, then add member contributions and interest related to purchased service. Member contributions and interest will also be included in any separation benefit. In no event shall employer contributions for purchased service be included in any separation benefit or lump-sum death benefit. ()

629. EMPLOYER PARTICIPATION.

State agency, political subdivision or government entity participation must be in the form of lump-sum payments at the time of retirement. In the event a state agency, political subdivision or government entity makes a contribution on behalf of a member and a distribution other than periodic payments occurs prior to the actual retirement effective date, the state agency, political subdivision or government entity may claim a credit against future contributions equal to the amount of the contribution. State agency, political subdivision or government entity contributions must be accompanied by or preceded by a written statement endorsed by the governing body or officer of the state agency, political subdivision or government entity verifying that the participation is properly authorized and that the state agency, political subdivision or government entity indemnifies PERSI against any loss resulting from failure of the state agency, political subdivision or government entity, or any person acting on its behalf, to act within its authority. ()

630. ADDITIONAL LIMITS ON PURCHASED SERVICE.

The Internal Revenue Code imposes limits on the amount of retirement benefits that can be paid to a retiree under a defined benefit plan. Benefits acquired through purchase of service are subject to these limits for some purposes. In no event can a member purchase service that would result in the member exceeding the limits imposed in Section 415(n)(1)(A) of the IRS Code. In addition, a member's initial retirement benefit, including purchased service, continues to be subject to the limitation in Section 59-1342(6), Idaho Code. ()

631. -- 649. (RESERVED)

SUBCHAPTER G – PERSI GAIN SHARING RULES
Rules 650 through 755

650. EXISTENCE OF EXTRAORDINARY GAINS.

The existence of extraordinary gains triggers the possibility that allocations will be made as provided in Section 59-1309, Idaho Code. However, the existence of extraordinary gains does not obligate the retirement board to make an allocation. The Board may choose not to allocate extraordinary gains, or it may choose to allocate all or part of the extraordinary gains. Extraordinary gains exist when, at the close of the fiscal year, the value of plan assets exceeds plan liabilities as determined by the actuary, plus a sum necessary to absorb a one (1) standard deviation market event without increasing contribution rates, as determined by the Board. The amount of extraordinary gains available for possible distribution equals the amount by which the assets exceed the sum of the liabilities and the one standard deviation. ()

651. VALUE OF PLAN ASSETS.

This is the total assets held in the PERSI base plan, as reported in the actuarial valuation at the end of the fiscal year. ()

652. PLAN LIABILITIES.

This is the actuarial liability of the PERSI base plan, including but not limited to, the cost of the proposed COLA to

be effective in March following the close of the fiscal year, the cost of any benefit enhancements to the base plan approved by the legislature, and the cost of actuarial gains and losses, as reported in the actuarial valuation for the fiscal year. ()

653. ONE STANDARD DEVIATION.

This is the amount of reserve necessary to absorb normal market fluctuations and is a function of the risk associated with investment holdings and strategies, and will be determined by the Board based on those factors. ()

654. BOARD DISCRETION.

The Board retains full discretion in determining whether to allocate extraordinary gains when they exist. Because of the broad range of factors that might be relevant to such a determination, and to assure that the Board will not be limited in exercising its discretion, these rules do not attempt to identify any of the factors that might be considered in the Board's fiduciary capacity. When extraordinary gains exist, the Board will decide whether they will be allocated no later than the first day of December following the end of the fiscal year. Such decision shall be in writing and shall constitute an amendment to the plan document for purposes of the Internal Revenue Code of 1986, as amended, or any successor thereto. In the absence of any such decision, the allocation for that year shall be zero (0.00). ()

655. -- 674. (RESERVED)

675. ALLOCATION BETWEEN GROUPS.

If extraordinary gains exist, and the Board determines that all or part of such gains should be allocated, an allocation will be made among the three (3) groups identified by Section 59-1309, Idaho Code. The three (3) groups and allocations are: ()

- a. Active PERSI members - 38 percent (38%); ()
- b. PERSI retirees - twelve percent (12%); and ()
- c. PERSI employers - fifty percent (50%) ()

676. -- 699. (RESERVED)

700. ACTIVE MEMBER ALLOCATION.

After the amount to be allocated to the active member group has been determined, it shall be allocated among the members of the group. The active member allocation determines each member's initial share before considering any applicable individual limits. Each member's initial share shall be determined by dividing that member's accumulated contributions in the base plan at the close of the fiscal year by the total accumulated contributions in the base plan of all members of the group at the close of the fiscal year, multiplied by the amount allocated to the active member group. In no event shall a member's initial share, before considering individual limits, exceed the maximum annual contribution limit under Section 415(c) of the IRS Code applicable for the limitation year. ()

701. MINIMUM ALLOCATION AMOUNT.

Due to the costs associated with maintaining individual choice accounts, no allocation shall be made to any member whose allocation share does not exceed thirty-eight dollars (\$38) after considering individual limits, unless the member had a PERSI choice account on the last day of the fiscal year and has not withdrawn funds before the allocation date. ()

702. ACTIVE MEMBER.

A member participates in the active member allocation only if such member is active and has at least twelve (12) months of accrued membership service on the last day of the fiscal year. For purposes of allocating extraordinary gains, active members also include: ()

- a. Seasonal employees who have a pattern of employment that includes at least six (6) months of membership service in each of the preceding three (3) consecutive years; and ()
- b. Employees who are on leave of absence on the last day of the fiscal year and either: ()

i. Return to active service for at least thirty (30) days before the December 31st immediately following the end of the fiscal year; or ()

ii. Are entitled to benefits under the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA). ()

703. ACCUMULATED CONTRIBUTIONS.

For purposes of allocating extraordinary gains within the active member group, accumulated contributions do not include contributions or interest related to the purchase of permissive service credits or contributions or interest in the Choice Plan or accounts. ()

704. TRANSFER TO DEFINED CONTRIBUTION CHOICE ACCOUNTS.

After each member's initial share has been determined, it will be transferred to an individual account as permitted under Section 414(k) of the IRS Code, subject to individual limits imposed by the Internal Revenue Code. The Board may transfer allocations anytime after necessary compensation data is received and processed by the Board. ()

705. LIMITATIONS ON ALLOCATION.

In no event shall a member's final allocation exceed the limits imposed by Section 415(c) of the IRS Code, based on compensation earned during the calendar year that included the end of the fiscal year. ()

706. INTERVENING RETIREMENT.

When a member is included in the active member pool but retires prior to the transfer of allocations, the member's allocation will be made as a one-time payment directly to the member rather than a transfer to an individual account. Such allocations will not be limited by Section 705 but will be subject to the limitations of Section 729. ()

707. INTERVENING WITHDRAWAL OF CONTRIBUTIONS.

When a member is included in the active member pool but terminates prior to the transfer of allocations, the allocation will be made to the member's individual account if the member has not withdrawn contributions from the Base account prior to the date of transfer of the allocation. No member who has withdrawn contributions from the Base account prior to the transfer of the allocation is eligible to receive an allocation. ()

708. INTERVENING DEATH OF ACTIVE MEMBER.

When a member would have been included in the active member allocation but dies prior to the transfer of allocations, no allocation shall be made to the member, beneficiary or estate except that an optional death benefit recipient will receive the active member's allocation as limited by Section 729. ()

709. TREATMENT OF GAIN SHARING ALLOCATIONS IN THE CHOICE ACCOUNT.

Gain sharing allocations transferred to individual Choice Accounts have no effect on an individual's Base Plan benefit. Gain sharing allocations, and the earnings thereon, will be accounted for separately from other Choice Plan contributions but will be treated as one plan for purposes of reporting, investing, distributions, and fees to the extent they are applicable. Related provisions of the Plan adopted by the Board to facilitate voluntary and employer contributions are applicable to gain sharing allocations to the extent not inconsistent with these rules and Sections 59-1308 and 59-1309, Idaho Code. However, no loans or hardship withdrawals may be taken against gain sharing account balances. ()

710. -- 724. (RESERVED)

725. RETIREE ALLOCATION.

After the amount to be allocated to the retiree group has been determined, it shall be allocated among the members of the group. The retiree allocation determines each member's share before considering any applicable individual limits. Each member's initial share shall be determined by dividing that retiree's monthly benefit at the close of the fiscal year by the total monthly benefits payable to all members of the group at the close of the fiscal year, multiplied by the amount allocated to the retiree group. ()

726. RETIREE.

For purposes of allocating extraordinary gains, a member must be a retiree as defined in this subchapter. ()

727. MONTHLY BENEFIT.

This is the monthly benefit for the last month of the fiscal year but does not include benefits related to other months that may also have been paid during the last month of the fiscal year. In no event shall a retiree's share be determined based on more than the retiree's annual benefit, not including any gain sharing allocations, divided by twelve (12). ()

728. PAYMENT OF ALLOCATION.

After each retiree's initial share has been determined, it will be paid no later than February 1 following the close of the fiscal year directly to the retiree either together with the retiree's monthly benefit or separately, subject to individual limits imposed by the Internal Revenue Code. ()

729. LIMITATIONS ON ALLOCATION.

Prior to allocation, a retiree's initial share shall be further limited as necessary to comply with the limits of Section 415(b) of the IRS Code. ()

730. INTERVENING DEATH OF A RETIREE.

When a retiree is included in the retiree allocation but dies prior to the transfer of allocations, no allocation shall be made unless benefit payments are continuing to be made to a contingent annuitant. ()

731. INTERVENING REEMPLOYMENT.

When a retiree is included in the retiree allocation but becomes reemployed as defined in Section 59-1356, Idaho Code, prior to the date of distribution, the retiree allocation shall be made in the form of an active member allocation, and shall be subject to active member limitations. ()

732. NEGATED RETIREMENT.

Gain sharing allocations received by a retiree are not included in the amounts required to be repaid when negating retirement under Section 541. ()

733. -- 749. (RESERVED)

750. EMPLOYER ALLOCATION.

After the amount to be allocated to the employer group has been determined, it shall be allocated among the members of the group. Each employer's share shall be determined by dividing that employer's contribution liability for the fiscal year by the total contribution liability for all members of the group for the fiscal year, multiplied by the amount allocated to the employer group. ()

751. EMPLOYER.

Participation in the employer pool is limited to those entities defined as an employer in this subchapter. ()

752. CONTRIBUTION LIABILITY.

This includes only employer contributions that are accrued during the fiscal year and required to be paid by Section 59-1322, Idaho Code, unreduced by gain sharing credits. It does not include contributions made to fund sick leave pools, to pay costs of other plans such as the Firefighters Retirement Fund, or to contributions required by Sections 33-107A and 33-107B, Idaho Code. Only adjustments related to fiscal year contributions will be considered. ()

753. CREDIT OF ALLOCATION.

After each employer's share has been determined, it will be credited against the employer's future contribution invoices. The credits shall be applied only to offset future employee and employer contributions required to be remitted by Section 59-1325(1), Idaho Code, until the credit is exhausted. An employer may elect to use the credits solely against employer contributions to the extent that no carry-over credits (as described in Section 754) result. ()

754. CARRY-OVER OF CREDIT.

Should the credit exceed the employer's contribution invoices for the succeeding twelve (12) month period, any remaining credits will carry over to the following year together with an additional credit representing an interest payment. The interest credit shall equal the balance of remaining credits multiplied by a ratio representing the regular rate of interest. This process shall be repeated annually until all credits have been used. ()

755. WITHDRAWAL OF EMPLOYER.

When an employer is included in the employer pool but withdraws from the system as provided in Section 59-1326, Idaho Code, prior to allocation of credits, the employer shall not be entitled to receive any credits. When an employer is entitled to carry-over credits but withdraws prior to using all its credits, it shall not be entitled to additional credits based on interest payments. ()

756. -- 999. (RESERVED)

[Agency redlined courtesy copy]

Italicized text indicates changes between the text of the proposed rule as adopted in the pending rule.

59.01.01 – RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

001. LEGAL AUTHORITY.

All PERSI rules are adopted under the legal authority of Sections 50-1507, 50-1508, 50-1524, 59-1301, 59-1314, 59-1372, 59-1383, 59-1392, and 72-1405, Idaho Code. (3-31-22)()

002. ~~WRITTEN INTERPRETATIONS – AGENCY GUIDELINES.~~ (RESERVED)

~~Written interpretations of these rules, to the extent they exist, are available from PERSI, at the Boise Office at 607 North Eighth Street, Boise, Idaho 83702.~~ (3-31-22)

003. ADMINISTRATIVE APPEAL.

Administrative appeals are conducted pursuant to these rules. ()

004. DEFINITIONS.

The definitions in Section 59-1302, Idaho Code, and the following apply to this chapter: ()

01. Active Member. A member participates in the active member allocation only if they are active and have at least twelve (12) months of accrued membership service on the last day of the fiscal year. For purposes of allocating extraordinary gains, active members also include: ()

a. Seasonal employees who have a pattern of employment that includes at least six (6) months of membership service in each of the preceding three (3) consecutive years; and ()

b. Employees who are on leave of absence on the last day of the fiscal year and either: ()

i. Return to active service for at least thirty (30) days before December 31 immediately following the end of the fiscal year; or ()

ii. Are entitled to benefits under the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA). ()

02. Actuary. This is the actuary retained by the Board. ()

03. Administrator. The Board. ()

04. Applicant. “Applicant” means an applicant for disability retirement under Section 59-1352, Idaho Code, or an individual requesting resumption of a disability retirement allowance under Section 59-1354A, Idaho Code. ()

05. Base Plan or Account. This is the PERSI defined benefit plan not including gain sharing allocations or interest thereon, or the individual accounts therein. ()

06. Board. “Board” means the governing authority of the Public Employee Retirement System of Idaho as provided by Section 59-1304, Idaho Code, of the Firefighters’ Retirement Fund created by Chapter 14, Title 72, Idaho Code, and the Policeman’s Retirement Fund created by Chapter 15, Title 50, Idaho Code. ()

07. Choice Plan or Account. This includes two (2) elements: ()

a. The defined contribution component of the PERSI plan consisting of gain sharing allocations together with earnings thereon or the individual accounts therein; and ()

b. The plan designated to receive voluntary and employer contributions as provided in Section 59-1308, Idaho Code, or the individual accounts therein. ()

08. Code. The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the IRS Code are to such sections as they may from time to time be amended or renumbered. ()

09. Compensation. “Compensation” as used in Section 59-1342(6), Idaho Code, means “salary” as defined by Section 59-1302(31), Idaho Code. ()

10. Court Security. “Court Security” as used in Section 59-1303(3)(g), Idaho Code, means the employee’s primary responsibilities are designated by court order to quell disturbances in the courthouse, to prevent the escape of prisoners, to exclude weapons from the courthouse, and to perform other related courthouse security matters. ()

11. Date of Retirement. “Date of retirement” means the effective date on which a retirement allowance becomes payable. ()

12. Designated Beneficiary. The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under section 401(a)(9) of the IRS Code and section 1.401(a)(9)-4, Q&A-4, of the Treasury regulations. ()

~~**13. Employer.** Entities that may qualify as political subdivisions include, among others, general purpose governmental entities, such as cities and counties (whether or not incorporated as municipal corporations), and special purpose governmental entities, such as special assessment districts that provide for roads, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvements, and other governmental purposes for a State or local governmental unit. (4-6-23)~~

143. Employment. “Employment” as used in Section 59-1302(14)(B)(b), Idaho Code, shall mean the period of time from a member’s date of hire to the member’s succeeding date of separation from that state agency, political subdivision or government entity. Placing a member on leave of absence with or without pay shall not be considered as a separation from the employer. ()

154. Firefighters' Retirement Fund. “Firefighters’ Retirement Fund” or “FRF” is the retirement fund provided by Chapter 14, Title 72, Idaho Code. ()

165. Gain Sharing. This refers to the process of allocating extraordinary gains from the base plan into the defined contribution component of the PERSI plan as permitted in Section 414(k) of the Internal Revenue Code and as provided by Section 59-1309, Idaho Code, and these rules. ()

176. General Member. “General member” is a PERSI member not classified as a police officer, firefighter, paid firefighter, or school employee. (4-6-23)

187. Likely. For the purpose of Section 59-1302(12)(b), Idaho Code, “likely” means with reasonable medical certainty. ()

198. Occupational Hazard. “Occupational Hazard” means an injury or ailment solely resulting from the work an applicant does or from the environment in which an applicant works. ()

2019. Pension Protection Act Definitions. Solely for purposes of the implementation by PERSI of section 402(l) of the Internal Revenue Code, the following definitions apply: ()

a. Chaplain. Any individual serving as an officially recognized or designated member of a legally organized volunteer fire department or legally organized police department, or an officially recognized or designated public employee of a legally organized fire or police department who was responding to a fire, rescue, or police emergency. ()

b. Eligible Retired Public Safety Officer. An individual who, by reason of disability or attainment of normal retirement age, is separated from service as a public safety officer with the state agency, political subdivision or government entity who maintains the eligible retirement plan from which distributions are made. ()

c. Normal Retirement Age. The member’s age at the time that the member is eligible to retire with an unreduced benefit. ()

d. Public Safety Officer. An individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, as a firefighter, as a chaplain, or as a member of a rescue squad or ambulance crew. ()

240. Primary Employer. The primary employer is the state agency, political subdivision or government entity from whom the employee receives the highest aggregate salary per month. ()

221. Public Employee Retirement System of Idaho. “Public Employee Retirement System of Idaho” or “PERSI” is the retirement system created by Chapter 13, Title 59, Idaho Code. ()

232. Required Beginning Date. The date specified in Section 508.02 of these rules. ()

243. Retiree. Retiree includes any member, contingent annuitant, or surviving spouse, receiving regular monthly allowances at the close of the fiscal year. It also includes members receiving a monthly disability retirement allowance, surviving spouses who elected an annuity option under Section 59-1361(5), Idaho Code, and members who were inactive at the close of the fiscal year but retire on or before the first day of January following the end of the fiscal year, retroactive to the first day of June of the fiscal year or earlier. ()

254. Service. For the purposes of Sections 536 and 539, “service” includes only service for which the member is normally in the administrative offices of the state agency, political subdivision or government entity or normally required to be present at any particular work station for the state agency, political subdivision or government entity. ()

265. Surviving Spouse. “Surviving spouse” is a person as defined in Section 15-2-802, Idaho Code. ()

276. Transportation Of Prisoners. “Transportation of prisoners” as used in Section 59-1303(3)(g), Idaho Code, means the employee’s primary responsibility is designated by court order to move prisoners from one (1) place to another. ()

005. -- 010. (RESERVED)

SUBCHAPTER A – PERSI RULES OF ADMINISTRATIVE PROCEDURE
Rules 011 through 099

011. OPT OUT OF ATTORNEY GENERAL’S RULES – TABLE.

PERSI declines to adopt the following Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01 as follows for the reasons listed:

Rules Promulgated by the Office of the Attorney General will be followed except the following sections of IDAPA 04.11.01 will be excluded	
151	PERSI procedure uses “petitioners” or “appellants” rather than “applicants” or “claimants.”
155	PERSI procedure uses “petitioners” rather than “protestants.”
156	PERSI procedure does not separately use intervention.
220	PERSI procedure uses “petitions” rather than “applications,” “claims” or “appeals.”
250	PERSI procedure uses “petitions” rather than “protests.”
350 - 399	PERSI procedure does not separately use intervention.
420 - 425	PERSI does not have a prosecutorial investigative function.
566	PERSI does not hold joint hearings.
730	PERSI statutes do not provide for preliminary orders.
741	PERSI has no authority to award costs or fees.
791.01.c.	The venue of all actions in which the Board is a party shall be Ada County, Idaho.” Idaho Code § 59-1305(1)
791.01.d.	The venue of all actions in which the Board is a party shall be Ada County, Idaho. Idaho Code § 59-1305(1)

()

~~012. VENUE:~~

~~Venue under Section 67-5272, Idaho Code, is not applicable on its face. Venue is Ada County, Idaho, per Section 59-1305, Idaho Code.~~ (3-31-22)

~~013. OBTAINING COPIES OF IRAP:~~

~~An official copy of IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General,” can be obtained through the Office of the Administrative Rules Coordinator, Division of Financial Management.~~ (3-31-22)

~~014. – 099. (RESERVED)~~

SUBCHAPTER B – PERSI RULES FOR ELIGIBILITY
Rules 100 through 249

100. MANDATORY MEMBERSHIP.

Membership in PERSI is mandatory for all persons who meet the statutory definition of an “employee” in Section 59-1302(14), Idaho Code. ()

101. MULTIPLE EMPLOYERS -- MEMBERSHIP ELIGIBILITY.

An employee establishes separate PERSI membership eligibility with each state agency, political subdivision or government entity with which the employee meets the statutory definition of an “employee” as found in Section 59-1302(14), Idaho Code. ()

01. Does Not Meet the Statutory Definition. Because membership eligibility is established independently with each state agency, political subdivision or government entity, neither employer nor employee contributions are required on salary paid by employers to employees who do not meet the statutory definition of an “employee” as found in Section 59-1302(14), Idaho Code. ()

02. State Agencies. An employee working for more than one (1) state agency establishes eligibility based on the total hours of employment worked with all state agencies. ()

102. ELECTED AND APPOINTED OFFICIALS NOT SUBJECT TO TWENTY HOUR REQUIREMENT.

Elected and appointed officials are not subject to the hourly requirement of Section 59-1302(14)(A)(a), Idaho Code. ()

103. ELECTED AND APPOINTED OFFICIALS — MEMBERS OF PERSI.

~~Elected and appointed officials serving on boards, councils, or commissions who receive salary or honorarium for services performed are members of PERSI even though they receive nominal salary and do not normally work twenty (20) hours or more per week. (3-31-22)~~

01. Hourly Requirement. Elected and appointed officials are not subject to the hourly requirement of Section 59-1302(14)(A)(a), Idaho Code. ()

02. Salary and Honorarium. Elected and appointed officials serving on boards, councils, or commissions who receive salary or honorarium for services performed are members of PERSI even though they receive nominal salary and do not normally work twenty (20) hours or more per week. ()

104. -- 110. (RESERVED)

111. TEACHER WORKING HALF-TIME OR MORE.

For the purposes of Section 59-1302(14)(A)(a), Idaho Code, a teacher is considered to be working half-time or more if the teacher's contract specifies that the engagement is half or more of a full contract. Teachers and all other school employees not employed under such a contractual arrangement shall be required to meet the requirement of normally working twenty (20) hours or more per week. ()

112. RESPONSIBILITY OF EMPLOYER TO DETERMINE EMPLOYEE ELIGIBILITY.

It is the responsibility of each state agency, political subdivision or government entity to make the initial determination of which employees within its jurisdiction meet the requirements of eligibility for membership and to withhold the required member contributions from salary paid. ()

113. NORMALLY WORKS TWENTY HOURS.

If a person works twenty (20) hours or more per week for more than one-half (1/2) of the weeks during the period of employment being considered, then the person meets the requirements of Section 59-1302(14)(A)(a), Idaho Code ("normally works twenty (20) hours or more per week"), and shall be considered an employee if the person meets the other requirements of Section 59-1302(14), Idaho Code. ~~Statutory References: Section 59-1302(14)(A)(a). (3-31-22)()~~

114. APPLICATION OF THE FIVE MONTH REQUIREMENT.

An employee working twenty (20) hours or more per week who is hired with the expectation of working less than five (5) consecutive months, becomes retroactively eligible for membership and employee and employer contributions must be immediately withheld whenever it becomes evident the period of employment will be five (5) consecutive months or longer and the employee meets the other requirements of Section 59-1302(14), Idaho Code. Delinquent payments will be paid by the employer within three (3) months. Regular interest will be assessed against the outstanding balance at the rate provided in Section 59-1325, Idaho Code. (3-31-22)()

~~**01. Employee and Employer Contributions.** Employee and Employer contributions must be immediately withheld by the state agency, political subdivision or government entity and forwarded when it becomes evident the period of employment will be five (5) consecutive months or more, and the employee meets the other requirements of Section 59-1302(14), Idaho Code. Delinquent employee and employer contributions on all prior months of employment, shall be paid by the state agency, political subdivision or government entity pursuant to Subsection 114.02 of this chapter. (3-31-22)~~

~~**02. Delinquent Contributions.** Employer shall collect and pay delinquent contributions of employer and employee within three (3) months once it becomes evident the period of employment will be five (5) consecutive~~

~~months or more. If the delinquent contributions are not paid within three (3) months, regular interest will be assessed against the outstanding balance until the delinquent employee contributions are paid in full. (3-31-22)~~

115. -- 120. (RESERVED)

121. CEASING TO BE AN EMPLOYEE.

A member ceases to be an employee on the day following the effective date that the member is separated from their employer. Membership service credits stop on the day the member ceases to be an employee. ()

122. LEAVE OF ABSENCE.

A member is ineligible to contribute and receive membership service credit while on leave of absence without pay or while on leave of absence with less than one-half (1/2) pay, unless the absence is occasioned by a worker's compensation claim approved by a surety. An active member separated from employment under conditions where both the member and the employer plan a later return to employment should be placed on leave of absence without pay during the planned period of absence. ()

01. Employer and Employee Contributions -- Leave of Absence. During the leave of absence without pay, employer and employee contributions cease. If the member is on a leave of absence as a result of an approved worker's compensation claim, employer and employee contributions are due and payable on any salary paid to the member. The member is entitled to a month of membership service credit for each month the member remains on leave of absence as a result of an approved worker's compensation claim and receives salary in addition to income benefits. ()

02. Documentation of Leave of Absence. The employer shall provide PERSI with documentation, on a form provided by PERSI, of a leave of absence to clarify the member's status and retirement benefit entitlement. ()

03. Status of Employee on Leave of Absence. An employee placed on a leave of absence by an employer remains in an employee status and is ineligible for payment of any separation benefits or for payment of a service, early, disability, or vested retirement allowance. If a member on leave of absence without pay terminates employment without returning to work, the leave without pay status is negated. ()

04. Leave of Absence -- Effect on Benefit Enhancement. An employee shall not be placed on a leave of absence without pay prior to the effective date of a benefit enhancement and then return to work after the effective date of the benefit enhancement for the purpose of qualifying for the benefit enhancement. An employee placed on unpaid leave of absence prior to the date of the benefit enhancement who returns to work after the effective date of the benefit enhancement and subsequently applies for retirement shall include with the application for retirement, certification from the state agency, political subdivision or government entity that the leave of absence was not granted for the purpose of allowing the person to qualify for the benefit enhancement. ()

~~**123. -- 149. (RESERVED)**~~

~~**150. POLICE OFFICER MEMBERSHIP CERTIFICATION.**~~

~~The executive director or the executive director's designee may accept or reject the employer's certification that an employee's primary position with the employer is a police officer for retirement purposes as required in Section 59-1303, Idaho Code. Acceptance of the certification shall not limit PERSI's right to review and reclassify the position for retirement purposes based upon an audit or other relevant information presented to PERSI. A position title or occasional assignments to active law enforcement service or hazardous law enforcement duties does not create a condition for designation as a police officer member for retirement purposes. (3-31-22)~~

~~**151. -- 199. (RESERVED)**~~

200. DETERMINATION OF FIREFIGHTER.

~~A "firefighter" means an employee whose primary occupation with an employer as defined by Section 59-1302(16), Idaho Code, is that of preventing and extinguishing fires. In addition to Section 59-1302(16), Idaho Code, the definition of a firefighter member for retirement purposes is an employee appointed to the position of fire chief by a city council but not eligible to be a "paid firefighter," or the chief fire warden of a timber protective association, or is~~

an employee of either the department of lands or of a timber protective association whose primary position and principal accountability in that position either requires direct supervision of employees engaged in the prevention, presuppression and suppression of wild land fires or requires the performance of those duties as the principal function of the position. A firefighter member for retirement purposes does not include an employee who may be required on occasion to engage in those functions as a secondary requirement of the position.

Statutory References: Sections 59-1302(16), 59-1391(f) and 72-1403, Idaho Code. (3-31-22)()

201. INCORRECT CLASSIFICATION OF FIREFIGHTER.

An employer or agency which believes that any position is incorrectly classified as a firefighter position or a non-firefighter position may petition the Board for inclusion or exclusion of such position as a firefighter position. Such petition shall be in writing and explain in detail the principal duties of the position. The Board will review the petition and evidence, together with such information and evidence as may be presented by the staff of PERSI. The Board may decide the matter based upon the information supplied, may request additional information, or may request an oral presentation before the Board.

Statutory References: Sections 59-1302(16), 59-1391(f) and 72-1403, Idaho Code. (3-31-22)()

202. PAID FIREFIGHTER EXCLUSION FROM RULES 200 AND 201.

The provisions of Sections 200 and 201 of this subchapter do not apply to a "paid firefighter" as defined by Sections 59-1391(f) or 72-1403(A), Idaho Code, or to any references to "firefighter" found in Title 72, Chapter 14, Idaho Code.

Statutory References: Sections 59-1302(16), 59-1391(f) and 72-1403, Idaho Code. ()

203. -- 249. (RESERVED)

**SUBCHAPTER C – PERSI GENERAL PROVISIONS, CONTRIBUTION RATE,
MISCELLANEOUS, AND INTEREST RATE RULES
Rules 250 through 374**

250. -- 302. (RESERVED)

303. EMPLOYEE CONTRIBUTIONS BASED ON GROSS SALARY.

Employee contributions shall be based on the employee's total gross salary regardless of source or employer funds from which the employee is paid. ()

304. (RESERVED)

305. MULTIPLE EMPLOYERS -- CONTRIBUTION RATE.

If the employee has met eligibility requirements with more than one (1) employer that would result in different contribution rates, contributions shall be made at the rate for the member's classification with the primary employer. ()

306. STATE EMPLOYEE CONTRIBUTIONS.

If an employee establishes membership with the state, the employee and each agency must make contributions on the employee's salary regardless of the number of hours worked at each state agency. ()

307. POLICE OFFICER CONTRIBUTIONS WITHHELD INCORRECTLY.

If an employee's contributions are withheld by an employer and received by PERSI at the rate established for police members on the presumption the certification required by Section 59-1303, Idaho Code, will be accepted, but if it is rejected, the employer shall adjust the employee's contribution rate to a general member rate and PERSI shall return to the employer any excess employee contributions that have occurred. ()

308. CONTRIBUTIONS DUE WHILE MEMBER IS RECEIVING WORKER'S COMPENSATION.

01. Contributions Due and Payable. Contributions are due and payable on whatever percentage of salary is paid while the member is on a leave of absence occasioned by an approved worker's compensation claim and the member will be entitled to a month of membership service credit for each month the member remains eligible. ()

02. Accruing Service. This means for an employee to continue accruing service the employer must continue to pay salary equal to the lesser of: ()

a. The amount necessary to meet the statutory definition of employee (half-time at the pre-injury rate or more), or ()

b. The employee's full-time salary less the employee's worker's compensation income benefit. ()

~~**03. Maintaining Eligibility for Injured Workers.** The intent of this rule is to permit employers to maintain eligibility for injured workers without having to pay salary that, when added to the employee's worker's compensation income benefit, would exceed the employee's total salary prior to the injury. Section 122 is inapplicable to the extent it conflicts with this rule. (3-31-22)~~

309. VACATION AND CONTRACTUAL PAYMENTS SUBJECT TO CONTRIBUTIONS.

Compensation paid for vacation or remaining contractual payments is salary subject to employee and employer contributions and earns membership credit through the effective date of separation from employment at the usual rate of compensation. ()

~~**310. -- 324. (RESERVED)**~~

~~**325. TRANSFER OF CONTRIBUTIONS TO PERSI.**~~

~~Employee and employer contributions shall be calculated and forwarded to PERSI by each employer for each employee that meets the statutory definition of "employee" as defined in Section 59-1302 (14), Idaho Code. All Contributions shall be remitted, together with an approved report to PERSI no later than five (5) days after each pay date as provided in Section 59-1325(1), Idaho Code. (3-31-22)~~

~~**326. — 349. (RESERVED)**~~

350. REGULAR INTEREST.

Regular interest for each calendar year shall be the greater of ninety percent (90%) of the rate of return on the PERSI fund net of all expenses for the fiscal year ending immediately prior to the calendar year as reported in the actuary's annual valuation report or one percent (1%). ()

351. INTEREST – MEMBER CONTRIBUTIONS.

Regular interest as defined in Section 59-1302(26), Idaho Code, ~~and Section 300 in this subchapter,~~ shall accrue to and be credited monthly to a member's accumulated contributions. (3-31-22)()

352. REINSTATEMENT INTEREST.

Reinstatement interest for each calendar year shall equal the average of the prime rate on June 30 of the latest three (3) years, plus one percent (1%). For purposes of this rule, the prime rate is the "prime rate" listed in the "Money Rates" section of the Wall Street Journal on June 30, or in the event no rate is listed on June 30, on the latest date preceding June 30 for which a prime rate is listed. Unless otherwise provided by statute or rule, reinstatement interest shall apply to all amounts owed to the fund. ()

~~**353. -- 374. (RESERVED)**~~

SUBCHAPTER D – PERSI DISABILITY RULES
Rules 375 through 499

~~**375. GENERAL RULE.**~~

~~Only members of PERSI with five (5) years of credited service are eligible for disability retirement except as provided in Section 59-1352(2), Idaho Code. (3-31-22)~~

~~**376. SERVICE RELATED DISABILITY FOR POLICE, GENERAL MEMBERS, AND FIREFIGHTERS.**~~

~~Police, general members, and certain firefighter members are eligible for disability retirement beginning from the first day of employment when the disability is caused by occupational hazards, as provided in Section 59-1352(2), Idaho Code. (3-31-22)~~

~~377~~**5**. -- 399. (RESERVED)

400. APPLYING FOR DISABILITY RETIREMENT.

Eligible members may apply for disability retirement by completing a required form available from any PERSI office. The application process may include an interview by a PERSI representative. Applicants must release all medical records and information to PERSI. The hours worked to qualify as an employee as defined in Section 59-1302(14), Idaho Code, is inapplicable for purposes of determining disability. ()

~~401. INITIAL APPLICATION REVIEW.~~ **(RESERVED)**

~~Applications will first be reviewed to determine whether the applicant meets eligibility requirements. If all eligibility requirements are met, the application will proceed to disability assessment review. If all eligibility requirements are not met, the applicant will be notified in writing. (3-31-22)~~

402. DISABILITY ASSESSMENT REVIEW.

Applicants will be assessed to determine whether they qualify for disability retirement under the applicable standard. The assessment may include without limitation, records review, medical and psychological examinations, vocational assessments, or any combination thereof as determined by PERSI. Failure to timely comply with any request made by PERSI during the assessment process shall result in automatic denial of disability retirement. At the conclusion of the assessment process, PERSI will notify applicants in writing whether or not they qualify for disability retirement. ()

403. RECONSIDERATION OF DISABILITY ASSESSMENT DECISION.

Applicants who are denied disability retirement as a result of an adverse disability assessment decision, and wish to contest that decision, are required to participate in a reconsideration process. A request for reconsideration must be made within thirty (30) days of the issuance of the disability assessment decision. Any additional information the applicant wishes to be considered must be submitted to PERSI within thirty (30) days of the request for reconsideration. The additional information will be reviewed and a reconsideration decision will be issued in writing to the applicant. ()

404. ADMINISTRATIVE REVIEW OF THE RECONSIDERATION DECISION.

A reconsideration decision shall be considered a final decision under Section 59-1314(2), Idaho Code, and may be appealed to the Board for review. In any related administrative hearing, the applicant shall be limited to presenting facts and evidence made available to PERSI in the reconsideration process. No new or additional evidence may be presented at the hearing. If the applicant has additional facts or evidence that were not made available to PERSI during the assessment or reconsideration process, the applicant must submit a new application for disability retirement, proceed again through the assessment process, and pay the costs associated with the second or subsequent assessment process. ~~This rule is intended to promote the efficient use of fund resources by encouraging full and complete disclosure of information during the disability assessment process. (3-31-22)()~~

405. DELEGATION.

PERSI may, by contract or otherwise, delegate all or part of these processes to third parties. Where such delegation has been made, the term "PERSI" includes those third parties. When a member requests the resumption of a disability retirement allowance pursuant to Section 59-1354A, Idaho Code, the board may delegate its authority under Section 59-1354A, Idaho Code, to a third party. Where such delegation has been made, the term "Board" includes those third parties. ()

406. REASSESSMENT OF DISABILITY RETIREES.

Disability retirees are subject to reassessment of their disability at any time to determine whether they continue to be disabled under the standard in Section 59-1302(12), Idaho Code. However, pursuant to Section 59-1302(12)(b), Idaho Code, after two (2) years of continuous disability retirement, a disability retiree is not required to undergo medical examinations more often than every twelve (12) months. Disability retirees who are notified that they have been selected for reassessment are under the same obligation as applicants to supply information. ()

407. ATTORNEY’S FEES AND COSTS.

Attorney’s fees and costs incurred by an applicant in his efforts to obtain disability retirement are the sole responsibility of the applicant and shall not be paid by PERSI except for fees related to judicial review for which applicant is found to be entitled under applicable law. ()

408. -- 424. (RESERVED)

425. BURDEN ON APPLICANT.

Applicant must demonstrate that, on or before applicant’s last day of employment, he was disabled under the disability standard. The last day of employment is the last day applicant earned compensation, including annual leave and sick leave. When a member requests the resumption of a disability retirement allowance pursuant to Section 59-1354A, Idaho Code, the member must demonstrate that he could not successfully return to work because of the same disability on which his disability retirement was based. ()

426. STATUTORY STANDARD.

In applying the disability standard in Section 59-1302(12), Idaho Code, substantially all avenues of employment are reasonably closed if the applicant is permanently prevented, due to bodily injury or disease, from performing every substantial and material duty of any occupation for which the applicant is reasonably qualified by education, training or experience. ()

427. (RESERVED)

428. HIRE-ABILITY OF APPLICANT.

The inability of the applicant to secure employment in and around the area where the applicant resides is not considered in determining whether or not the applicant is disabled. If the applicant is able to perform every substantial and material duty of any jobs existing in the economy for which the applicant is reasonably qualified by education, training or experience, the applicant will not be considered disabled regardless of other factors that might affect the applicant’s ability to actually secure employment, such as employer decisions and practices or the fact that there are no open positions or that the applicant is not selected for those positions. ()

429. -- 449. (RESERVED)

450. COMMENCEMENT AND DURATION OF DISABILITY ALLOWANCE.

The commencement and duration of payment of disability benefits is governed by Section 59-1354, Idaho Code. For purposes of Section 59-1354(1)(b), Idaho Code, a member “becomes eligible” on the first of the month following the date selected by the member which follows the date on which the member is unable to and thereafter does not return to work on a regular basis for two (2) consecutive weeks but not later than the date on which the member ceases to make contributions. ()

451. DETERMINING WORKER'S COMPENSATION OFFSET.

To determine the offset required by Section 59-1353, Idaho Code, the amount payable under the provisions of any worker's compensation law which represents income benefits as defined in Section 72-102, Idaho Code, shall be converted to a monthly equivalent and deducted from the monthly retirement allowance. ()

452. EFFECT OF UNUSED SICK LEAVE ON DISABILITY ALLOWANCE.

Unused sick leave entitlement provided for by either Section 33-1228, 33-2109A, or 67-5339, Idaho Code, shall not be considered salary or compensation in the application of Section 59-1354(1), Idaho Code. ()

453. -- 474. (RESERVED)

475. APPLICATION OF THIS SUBCHAPTER TO FRF DISABILITY RETIREMENT.

All the provisions of this subchapter, except Sections 375, 376, 406, 426, 427, 451 and 452, apply also to applications for disability retirement under the FRF plan to the extent they do not conflict with the provisions of Title 72, Chapter 14, Idaho Code. ()

476. -- 499. (RESERVED)

SUBCHAPTER E – PERSI SEPARATION FROM SERVICE RULES
Rules 500 through 524

500. REPAYMENT OF SEPARATION BENEFITS -- EMPLOYEE STATUS.

Repayment of a separation benefit must commence while the member is an employee, as defined in Section 59-1302(14), Idaho Code. For purposes of this rule the term employee includes employees accruing benefits under the Department of Employment Retirement Plan, the Firefighters' Retirement Fund, and the Policeman's Retirement Fund.

[Statutory Reference: Section 59-1360, Idaho Code.](#)

~~(3-31-22)~~()

501. INTEREST ACCRUAL AND CALCULATION ON SEPARATION BENEFITS.

Repayment of separation benefits as provided in Section 59-1360, Idaho Code, for employees whose most recent date of reemployment is after January 23, 1990, shall include payment of interest that shall accrue from the date each separation benefit was issued. Repayment of separation benefits as provided in Section 59-1360, Idaho Code, for employees whose most recent date of reemployment is before January 23, 1990, shall include payment of interest as determined by the law, statutes and rules in effect on the date of last reinstatement to employee status, except as provided in Section 502 of this subchapter.

[Statutory Reference: Section 59-1360, Idaho Code.](#)

~~(3-31-22)~~()

502. REPAYMENT OF SEPARATION BENEFITS BY EMPLOYEES PREVIOUSLY PRECLUDED FROM REPAYMENT.

Any employee who was precluded from repaying a separation benefit due to the fact they failed to meet the requirements of Section 59-1360, Idaho Code, may reinstate their previous credited service by repaying the full amount of their accumulated contributions provided such repayment includes payment of regular interest accruing from the date of each such separation benefit payment.

[Statutory Reference: Section 59-1360, Idaho Code.](#)

~~(3-31-22)~~()

503. METHODS OF REPAYMENT OF SEPARATION BENEFITS.

01. Periodic and Lump-Sum Payments. Where an active member elects to repay a separation benefit to reinstate previous service as provided in Section 59-1360, Idaho Code, the member may request that repayment be made in periodic payments or in a lump-sum payment. No service will be reinstated until the full repayment has been made. ()

02. Repayments Initiated on or After March 1, 2000. For all repayments initiated on or after March 1, 2000, except as provided in Section 501 of this subchapter, a repayment amount will be determined which shall be the sum of the separation benefit(s) plus regular interest from the date of the benefit payment(s) until the date of the first payment. The repayment amount will be amortized over the repayment period at the reinstatement rate in effect on the date of the first periodic payment. ()

03. Repayments Initiated Before March 1, 2000. For all periodic repayments initiated before March 1, 2000, a repayment amount will be determined which shall be the sum of the separation benefit(s) plus regular interest from the date of the benefit payment(s) until the date of the first payment. The repayment amount will be amortized over the repayment period at four point seventy-five percent (4.75%) interest. This is a grandfathered rate based on the rate in effect December 31, 1999, and will apply so long as payments exceed interest charges on a calendar year basis. If payments fail to exceed interest charges in any calendar year, the grandfathered rate will be forfeited and replaced by the reinstatement rate beginning in January immediately after the year in which the failure occurs. For purposes of these rules, a repayment is initiated by signing an agreement and making a payment. ()

04. Repayments Under Section 59-1331(2), Idaho Code. For (waiting period) payments made pursuant to Section 59-1331(2), Idaho Code, ~~a the repayment amount shall be determined which shall be~~ **is** the sum of contributions that would have been made plus regular interest from December 31, 1975 until the date of the first payment. The repayment amount will be amortized over the payment period at the reinstatement rate in effect on the date of the first periodic payment. ~~(3-31-22)~~()

504. IN-SERVICE TRANSFERS TO REINSTATE SERVICE.

To the extent permitted by federal law, and in accordance with any regulation or other guidance issued by the Internal Revenue Service, an active member may transfer funds from a 401(k), a 403(b), or an eligible 457(b) plan, in which they are currently eligible to participate, to the Base Plan for purposes of buying back service previously forfeited due to receiving a separation benefit, purchasing service related to eligible waiting periods, or purchasing service for periods of delinquent contributions. ()

505. (RESERVED)

506. ROLLOVERS ACCEPTED INTO THE BASE PLAN.

The PERSI Base Plan will accept participant rollover contributions and direct rollovers of distributions made after December 31, 2001, for purposes of reinstating or purchasing service as permitted under the plan, from the following plans. No after-tax contributions may be rolled over into the Base Plan. ()

01. Qualified Plans. A qualified plan described in section 401(a) or 403(a) of the Internal Revenue Code (Code). ()

02. Annuity Contracts. An annuity contract described in section 403(b) of the IRS Code. ()

03. 457 Plans. An eligible plan under section 457(b) of the IRS Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. ()

04. IRAs. Any portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the IRS Code that is eligible to be rolled over and would otherwise be includable in gross income. ()

507. DIRECT ROLLOVERS OUT OF THE BASE PLAN.

A direct rollover is a payment by the plan to an eligible retirement plan specified by the distributee. ()

01. Rollover Election. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this part, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution that is equal to at least five hundred dollars (\$500) paid directly to an eligible retirement plan specified by the distributee in a direct rollover. ()

02. Eligible Rollover Distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: ()

a. Any distribution that is one (1) of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; ()

b. Any distribution to the extent such distribution is required under section 401(a)(9) of the IRS Code); ()

c. Any amount that is distributed on account of hardship; ()

d. The portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and ()

e. Any other distribution(s) that is reasonably expected to total less than two hundred dollars (\$200) during a year. ()

03. After-Tax Contributions. For purposes of the direct rollover provisions in Subsection 507.02, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includable in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the IRS Code, or to a

qualified defined contribution plan described in section 401(a) or 403(a) of the IRS Code that agrees to separately account for the amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable. ()

04. Eligible Retirement Plan. An eligible retirement plan is an individual retirement account described in section 408(a) of the IRS Code, an individual retirement annuity described in section 408(b) of the IRS Code, a Roth IRA described in Section 408A of the IRS Code, an annuity plan described in section 403(a) of the IRS Code, an annuity contract described in section 403(b) of the IRS Code, an eligible plan under section 457(b) of the IRS Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan, or a qualified plan described in section 401(a) of the IRS Code, that accepts the distributee's eligible rollover distribution. ()

05. Alternate Payees. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse, who is the alternate payee under a domestic retirement order, approved as provided in Sections 59-1319 and 1320, Idaho Code, are distributees with regard to the interest of the spouse or former spouse. ()

508. REQUIRED MINIMUM DISTRIBUTIONS.

01. Default Application of Federal Requirements. With respect to distributions under the Base Plan, and except as provided in Subsection 508.06, the Plan will apply the minimum distribution requirements of section 401(a)(9) of the IRS Code in accordance with a good faith interpretation of section 401(a)(9), notwithstanding any provision of the Base Plan to the contrary. ()

02. Required Beginning Date. Except as otherwise provided in Subsections 508.04 through 508.08, distributions under the Base Plan shall begin not later than April 1 following the later of (a) the commencement year or (b) the year in which the member retires. For purposes of Section 508, the "commencement year" is the calendar year in which the member reaches ~~age seventy-two (72)~~ the applicable age, as defined in Internal Revenue Code Section 401(a) as now in effect and thereafter amended. (3-31-22)()

03. PERSI Selects Retirement Option. Any member required to take minimum distributions, as provided in this Section 508, and fails to complete and submit an approved retirement application and select either a regular or optional retirement allowance by April 1 following the later of (a) the commencement year or (b) the year in which the member retires shall be deemed to have made the following selection: ()

a. If single, a regular retirement allowance and no other selection shall be required or permitted. ()

b. If married, Option 1 and no other selection shall be required or permitted, unless proof is provided that spouse has no community property interest in the benefit. ()

04. Lifetime Distributions. Distribution shall be made over the life of the participant or the lives of the participant and his beneficiary; or over a period certain not extending beyond the life expectancy of the member or the joint life and last survivor expectancy of the member and his beneficiary. ()

05. Timing of Required Distributions. A required distribution shall be deemed to have been made during the commencement year if actually made by the following April 1, but such delayed distribution shall not change the amount of such distribution, and the distribution otherwise required during the subsequent calendar year shall be calculated as if the first distribution had been made on the last day of the commencement year. ()

06. Adjustment of Required Distributions. Benefits paid prior to the commencement year shall reduce the aggregate amount subject to (but shall not otherwise negate) the minimum distribution requirements described herein. ()

07. Benefits Deferred Beyond Service Retirement. The first payment of benefits of an inactive member following deferment beyond service retirement will be in a lump sum that includes payment for those

months of service dating from the date of service retirement when a monthly retirement payment would have started through the current monthly payment. Subsequent payments will be for the monthly retirement allowance only. ()

08. Death Benefits. All death benefits payable under the Base Plan will be distributed as soon as administratively practicable after request, but must in any event be distributed within fifteen (15) months of the member's death, unless the identity of the beneficiary is not ascertainable. ()

509. TRANSFERS TO NON-SPOUSE BENEFICIARIES.

Notwithstanding any other provision of the Base Plan to the contrary that would otherwise limit the options of the beneficiary of a deceased member who is not the member's spouse, the administrator shall, upon the request of such a beneficiary, transfer a lump sum distribution to the trustee of an individual account established under Section 408 of the IRS Code in accordance with the provisions of Section 402(e)(11) of the IRS Code. ()

510. -- 524. (RESERVED)

SUBCHAPTER F – PERSI RETIREMENT RULES
Rules 525 through 649

525. AVERAGE MONTHLY SALARY COMPUTATION -- EQUITABLE TREATMENT -- DIFFERENT WORK PERIODS.

Equitable treatment for all members can be achieved only if members whose career patterns covering the same time frame and who received identical annual salaries during each of the twelve-month periods of that time frame accrue the same monthly service retirement allowance. To achieve this equity for the member whose annual salary has been paid on other than a twelve-month salary schedule during any contractual or like twelve-month period, the average monthly salary used for each one of those twelve-month periods will be determined from the total base period salary by using a divisor representing the months of membership service which would have been accumulated at that rate over a full base period.

Statutory Reference: Sections 59-1302(5A), 59-1391(b), Idaho Code.

(3-31-22)()

526. UNUSUAL COMPENSATION PATTERN EFFECT ON RETIREMENT CALCULATION.

Upon application for a retirement benefit, any portion of compensation which represents payments in excess of and inconsistent with the usual compensation pattern, for example, but not limited to lump sum contract payouts, excess vacation paid but not taken, paid sick leave, or a clothing allowance ~~will not be considered in determining benefits.~~

(3-31-22)()

527. MAXIMUM RETIREMENT ALLOWANCE (RULE 111).

If the amount of a member's initial retirement allowance on the date of retirement would exceed the average salary during the member's highest thirty-six (36) consecutive calendar months of salary, then the member's initial retirement allowance will be limited to the greater of: the average salary during the highest thirty-six (36) consecutive calendar months of salary; or the initial retirement allowance based on credited service through April 1990. Optional retirement allowances will be computed after any limitation above has been applied. ()

528. MEMBER NOTIFIED OF AVAILABLE RETIREMENT OPTIONS PRIOR TO BOARD APPROVAL.

The Retirement Board shall not act on any application for retirement unless the member has previously been provided with notification of the regular retirement option and options one (1) and two (2) election available to the member including the value of the monthly allowance of each. The value of options three (3) and four (4) will be provided if the member so requests the value of the option and provides information required to calculate that option (such as but not limited to social security benefit estimates) which is not available to PERSI but that can be provided by the member. ()

529. -- 530. (RESERVED)

531. RETIREMENT APPLICATIONS.

Except as provided in this rule, a member is required to complete and submit an approved retirement application and select either a regular or optional retirement allowance. The member's signature must be notarized. The application

for retirement indicating the election made by the retiring member shall also be signed by the spouse certifying the spouse understands and consents to the election made by the member. The spouse's signature must be notarized. Until an application for retirement is filed, no benefit payment is required. Applications with retroactive retirement dates are entitled to lump sum payments and do not include interest. ()

532. ~~PAYMENT DATE OF EARLY OR SERVICE RETIREMENT ALLOWANCE — GENERAL MEMBERS.~~ (RESERVED)

~~As set forth by Section 59-1344, Idaho Code, a PERSI member's service retirement allowance or early retirement allowance is payable on the first of the month following the month in which the member ceases to be an employee while eligible for either of these forms of retirement.~~

~~Statutory References: Section 59-1344 and 59-1356(2), Idaho Code.~~ (3-31-22)

533. ELECTED OR APPOINTED OFFICIAL WORKING FOR MULTIPLE STATE AGENCIES, POLITICAL SUBDIVISIONS OR GOVERNMENT ENTITIES.

An active member separated from employment by one (1) state agency, political subdivision or government entity for whom he or she did normally work twenty (20) hours or more per week and who is age sixty-two (62) or older and eligible to retire but remains an elected or appointed official with a different state agency, political subdivision or government entity, may retire and continue in that elected or appointed position provided that position is one in which he or she does not normally work twenty (20) hours or more per week. The member shall receive retirement allowances under the conditions provided by Section 538.

~~Statutory References: Sections 59-1344 and 59-1356(2), Idaho Code.~~ (3-31-22)()

534. ELECTED OR APPOINTED OFFICIAL RETIRING IN PLACE.

An active member serving as an elected or appointed official who does not normally work twenty (20) hours or more per week who is age sixty-two (62) or older and eligible to retire and who is not an eligible employee with another state agency, political subdivision or government entity pursuant to Section 101 may then retire and continue in that position. The member shall receive retirement allowances under the conditions provided by Section 538.

~~Statutory References: Sections 59-1344 and 59-1356(2), Idaho Code.~~ (3-31-22)()

535. ~~RESTRICTIONS ON REEMPLOYMENT OF RETIRED MEMBERS.~~ (RESERVED)

~~There are no restrictions placed upon employment or earnings of retired members except with respect to employment by a state agency, political subdivision or government entity member of PERSI. Unless specified otherwise, the conditions of reemployment outlined in this subchapter apply for employment with any state agency, political subdivision or government entity member of the system.~~

~~Statutory Reference: Section 59-1356, Idaho Code.~~ (3-31-22)

536. RETIRED MEMBER BECOMING AN ACTIVE MEMBER.

01. Return to Service. A PERSI retired member employed in a position which involves service of normally twenty (20) hours or more per week for a period of five (5) or more consecutive months or longer will return to the status of an active member. Retirement benefits will suspend on reemployment and employee and employer contributions will resume to provide additional retirement credits. If a retired member is reemployed in a position which involves service of twenty (20) hours or more per week for a period of less than five (5) consecutive months, their monthly retirement benefits will continue to be paid. If the member's reemployment should equal or exceed the five (5) month period for any reason, the member will be required to repay the retirement benefits paid during the five (5) month period which they were reemployed and they will return to the status of an active member. Employee and employer contributions will be due for the five (5) consecutive month period.

~~Statutory Reference: Section 59-1356, Idaho Code.~~ (3-31-22)()

02. Return to School District. A PERSI retired member who qualifies to return to employment with a school district under Section 59-1356(4), Idaho Code, must return in the same job capacity to fulfill the intent of the statute, to fill hard-to-fill positions. A school teacher must return to work as a school teacher, a qualified bus driver must return to work as a bus driver, an administrator must return to work as an administrator. (3-31-22)

537. REEMPLOYMENT LESS THAN FIVE CONSECUTIVE MONTHS.

If the period of reemployment develops to be less than five (5) consecutive months, contributions will be refunded and retirement allowances will resume as of the date they were discontinued.

~~Statutory Reference: Section 59-1356, Idaho Code. (3-31-22)()~~

538. REEMPLOYMENT -- WORKING LESS THAN TWENTY HOURS OR LESS THAN FIVE CONSECUTIVE MONTHS.

Monthly retirement allowances will continue to be paid to the PERSI retired member who returns to employment in a position where the member does not normally work twenty (20) hours or more per week or the reemployment is for a period which does not total five (5) consecutive months and the state agency, political subdivision or government entity so certifies. In such cases, employee and employer contributions are neither required nor acceptable and no new retirement credits can be earned.

~~Statutory Reference: Section 59-1356, Idaho Code. (3-31-22)()~~

539. RETIRED MEMBER BECOMING AN ELECTED OR APPOINTED OFFICIAL.

A PERSI retired member who is subsequently elected or appointed by an employer to public office and who is not normally required to perform services of twenty (20) hours or more per week in that position may continue to receive retirement allowances in the status of a reemployed retired member under conditions outlined by Section 537.

~~Statutory Reference: Section 59-1356, Idaho Code. (3-31-22)()~~

540. SEPARATION FROM EMPLOYMENT AFTER REEMPLOYMENT.

Upon subsequent separation from employment after reemployment, the member's original monthly retirement allowance will resume with appropriate cost-of-living adjustments plus the addition of a separate allowance computed with respect to salary and service credited during the reemployment period.

~~Statutory Reference: Section 59-1356, Idaho Code. (3-31-22)()~~

541. EARLY RETIREMENT MEMBER -- REEMPLOYMENT.

A PERSI member who had been receiving an early retirement allowance and who returns to employment as an active member may refund all retirement benefits previously paid plus regular interest accrued from the date each monthly allowance had been paid, thereby negating the previous retirement status. The month of last contribution prior to the negated retirement and the month of initial contribution upon return to active membership shall be considered consecutive months of contributions in the determination of an appropriate salary base period upon subsequent retirement.

~~Statutory Reference: Section 59-1356, Idaho Code. (3-31-22)()~~

542. BENEFIT ENHANCEMENT -- QUALIFICATION.

To qualify for a benefit enhancement, a person must remain an active member through the day following the effective date of the enhancement. ()

~~**543. - 544. POST RETIREMENT ALLOWANCE ADJUSTMENTS PERSI RETIREES. (RESERVED)**~~

~~The Board shall annually determine the post retirement cost of living adjustment (COLA) for the Public Employee Retirement System of Idaho (PERSI) pursuant to Section 59-1355, Idaho Code. The Board shall have discretion in adopting a yearly discretionary and/or retro active COLA. The Board shall yearly adopt this COLA no later than the December Board meeting of each year with an effective date of March 1 of the next year.~~

~~Statutory References: Section 59-1355, Idaho Code. (3-31-22)~~

~~**544. ACTUARIAL ASSUMPTION TABLES.**~~

~~The actuarial tables used for determining optional and early retirement benefits are as follows:~~

TABLE A — PAGE 1											
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO											
EARLY RETIREMENT FACTORS											
If the date of last contribution is prior to 10/1/92											
Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.970	.940	.910	.880	.850	.770	.690	.610	.530	.450

TABLE A—PAGE 1 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO EARLY RETIREMENT FACTORS If the date of last contribution is prior to 10/1/92											
Months	Years										
1	.998	.968	.938	.908	.878	.843	.763	.683	.603	.523	
2	.995	.965	.935	.905	.875	.837	.757	.677	.597	.517	
3	.993	.963	.933	.903	.873	.830	.750	.670	.590	.510	
4	.990	.960	.930	.900	.870	.823	.743	.663	.583	.503	
5	.988	.958	.928	.898	.868	.817	.737	.657	.577	.497	
6	.985	.955	.925	.895	.865	.810	.730	.650	.570	.490	
7	.983	.953	.923	.893	.863	.803	.723	.643	.563	.483	
8	.980	.950	.920	.890	.860	.797	.717	.637	.557	.477	
9	.978	.948	.918	.888	.858	.790	.710	.630	.550	.470	
10	.975	.945	.915	.885	.855	.783	.703	.623	.543	.463	
11	.973	.943	.913	.883	.853	.777	.697	.617	.537	.457	

First sixty months reduction: 0.2500% Next sixty months reduction: 0.6667%

(3-31-22)

TABLE A—PAGE 2 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO EARLY RETIREMENT FACTORS If the date of last contribution is on or after 10/1/92 but prior to 10/1/93											
Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.970	.940	.910	.880	.850	.777	.705	.632	.560	.487
1	.998	.968	.938	.908	.878	.844	.771	.699	.626	.554	
2	.995	.965	.935	.905	.875	.838	.765	.693	.620	.548	
3	.993	.963	.933	.903	.873	.832	.759	.687	.614	.542	
4	.990	.960	.930	.900	.870	.826	.753	.681	.608	.536	
5	.988	.958	.928	.898	.868	.820	.747	.675	.602	.530	
6	.985	.955	.925	.895	.865	.814	.741	.669	.596	.524	
7	.983	.953	.923	.893	.863	.808	.735	.663	.590	.518	
8	.980	.950	.920	.890	.860	.802	.729	.657	.584	.512	
9	.978	.948	.918	.888	.858	.796	.723	.651	.578	.506	
10	.975	.945	.915	.885	.855	.790	.717	.645	.572	.500	
11	.973	.943	.913	.883	.853	.784	.711	.639	.566	.494	

First sixty months reduction: 0.2500% Next sixty months reduction: 0.6042%

(3-31-22)

TABLE A—PAGE 3 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO EARLY RETIREMENT FACTORS If the date of last contribution is on or after 10/1/93 but prior to 10/1/94											
Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.970	.940	.910	.880	.850	.785	.720	.655	.590	.525
1	.998	.968	.938	.908	.878	.845	.780	.715	.650	.585	
2	.995	.965	.935	.905	.875	.839	.774	.709	.644	.579	
3	.993	.963	.933	.903	.873	.834	.769	.704	.639	.574	
4	.990	.960	.930	.900	.870	.828	.763	.698	.633	.568	
5	.988	.958	.928	.898	.868	.823	.758	.693	.628	.563	
6	.985	.955	.925	.895	.865	.817	.752	.687	.622	.557	
7	.983	.953	.923	.893	.863	.812	.747	.682	.617	.552	
8	.980	.950	.920	.890	.860	.807	.742	.677	.612	.547	
9	.978	.948	.918	.888	.858	.804	.736	.671	.606	.541	
10	.975	.945	.915	.885	.855	.796	.731	.666	.601	.536	
11	.973	.943	.913	.883	.853	.790	.725	.660	.595	.530	

First sixty months reduction: 0.2500% Next sixty months reduction: 0.5417%

(3-31-22)

TABLE A—PAGE 4 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO EARLY RETIREMENT FACTORS Date of last contribution is on or after 10/1/94 or later											
Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.0	.970	.940	.910	.880	.850	.792	.735	.677	.620	.562
1	.998	.968	.938	.908	.878	.845	.788	.730	.673	.615	
2	.995	.965	.935	.905	.875	.840	.783	.725	.668	.610	
3	.993	.963	.933	.903	.873	.836	.778	.721	.663	.606	
4	.990	.960	.930	.900	.870	.831	.773	.716	.658	.601	
5	.988	.958	.928	.898	.868	.826	.769	.711	.654	.596	
6	.985	.955	.925	.895	.865	.821	.764	.706	.649	.591	
7	.983	.953	.923	.893	.863	.816	.759	.701	.644	.586	
8	.980	.950	.920	.890	.860	.812	.754	.697	.639	.582	
9	.978	.948	.918	.888	.858	.807	.749	.692	.634	.577	

TABLE A—PAGE 4 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO EARLY RETIREMENT FACTORS Date of last contribution is on or after 10/1/94 or later											
Months	Years										
10	.975	.945	.915	.885	.855	.802	.745	.687	.630	.572	.515
11	.973	.943	.913	.883	.853	.797	.740	.682	.625	.567	.510

(3-31-22)

TABLE B—Page 4 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4 AND CERTAIN DEATH BENEFITS Options 3 and 4: Years and Months Until Member Would Be Social Security Retirement Age Death Benefits: Additional Years and Months Until Member Would Qualify for an Unreduced Service Retirement Allowance AFTER Applying Table A factors											
Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.923	.853	.787	.727	.671	.620	.572	.528	.488	.451
1	.993	.917	.847	.782	.722	.667	.616	.568	.525	.485	.448
2	.987	.911	.841	.777	.717	.662	.612	.565	.521	.481	.444
3	.980	.905	.836	.772	.713	.658	.608	.561	.518	.478	.441
4	.974	.899	.830	.767	.708	.654	.604	.557	.515	.475	.438
5	.967	.893	.825	.762	.703	.649	.600	.554	.511	.472	.435
6	.961	.887	.819	.756	.699	.645	.596	.550	.508	.469	.432
7	.955	.881	.814	.751	.694	.641	.592	.546	.504	.466	.429
8	.948	.876	.808	.746	.689	.636	.588	.543	.501	.463	.426
9	.942	.870	.803	.742	.685	.632	.584	.539	.498	.460	.423
10	.936	.864	.798	.737	.680	.628	.580	.535	.494	.457	.420
11	.930	.858	.793	.732	.676	.624	.576	.532	.491	.454	.417

(3-31-22)

TABLE B—Page 2
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4 AND CERTAIN DEATH BENEFITS
Options 3 and 4: Years and Months Until Member Would Be Social Security Retirement Age
Death Benefits: Additional Years and Months Until Member Would Qualify
for an Unreduced Service Retirement Allowance
AFTER Applying Table A factors

Months	Years										
	10	11	12	13	14	15	16	17	18	19	20
0	.451	.416	.384	.355	.327	.302	.279	.258	.238	.220	.203
1	.448	.413	.382	.352	.325	.300	.277	.256	.236	.218	
2	.445	.411	.379	.350	.323	.298	.276	.254	.235	.217	
3	.442	.408	.377	.348	.321	.296	.274	.253	.233	.215	
4	.439	.405	.374	.345	.319	.294	.272	.251	.232	.214	
5	.436	.402	.372	.343	.317	.293	.270	.249	.230	.213	
6	.433	.400	.369	.341	.315	.291	.268	.248	.229	.211	
7	.430	.397	.367	.339	.313	.289	.267	.246	.227	.210	
8	.427	.394	.364	.336	.311	.287	.265	.244	.226	.208	
9	.424	.392	.362	.334	.308	.285	.263	.243	.224	.207	
10	.422	.389	.359	.332	.306	.283	.261	.241	.223	.206	
11	.419	.387	.357	.330	.304	.281	.260	.240	.221	.204	

(3-31-22)

TABLE B—Page 3
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4
AND CERTAIN DEATH BENEFITS
Options 3 and 4: Years and Months Until Member
Would Be Social Security Retirement Age
Death Benefits: Additional Years and Months Until Member Would Qualify
for an Unreduced Service Retirement Allowance
AFTER Applying Table A Factors

Months	Years					
	20	21	22	23	24	25
0	.203	.187	.173	.160	.148	.136
1	.202	.186	.172	.159	.147	.135
2	.200	.185	.171	.158	.146	.134
3	.199	.184	.170	.157	.145	.134
4	.198	.183	.169	.156	.144	.133

TABLE B— Page 3
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4
AND CERTAIN DEATH BENEFITS
Options 3 and 4: Years and Months Until Member
Would Be Social Security Retirement Age
Death Benefits: Additional Years and Months Until Member Would Qualify
for an Unreduced Service Retirement Allowance
AFTER Applying Table A Factors

Months	Years					
5	-196	-181	-167	-155	-143	-132
6	-195	-180	-166	-154	-142	-131
7	-194	-179	-165	-153	-141	-130
8	-192	-178	-164	-152	-140	-129
9	-191	-177	-163	-151	-139	-128
10	-190	-175	-162	-150	-138	-127
11	-189	-174	-161	-149	-137	-127

(3-31-22)

TABLE C— Page 4
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
CONTINGENT ANNUITANT FACTORS
For persons retiring before July 1, 1995

	Age Difference in Years	Factors	
		Option 1	Option 2
	15*	0.600	0.750
	14	0.610	0.758
	13	0.621	0.766
	12	0.631	0.775
	11	0.642	0.782
Member	10	0.652	0.789
Older	9	0.663	0.797
Than	8	0.674	0.804
Contingent Annuitant	7	0.685	0.812
	6	0.697	0.821
	5	0.708	0.830
	4	0.720	0.838
	3	0.732	0.846

TABLE C— Page 1 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO CONTINGENT ANNUITANT FACTORS For persons retiring before July 1, 1995			
	Age Difference in Years	Factors	
	2	0.746	0.855
	1	0.762	0.865
	0	0.780	0.876
	1	0.799	0.887
	2	0.823	0.902
	3	0.836	0.910
	4	0.847	0.918
	5	0.856	0.924
Member	6	0.865	0.930
Younger	7	0.873	0.935
Than	8	0.881	0.940
Contingent Annuitant	9	0.888	0.944
	10	0.897	0.949
	11	0.906	0.955
	12	0.916	0.961
	13	0.926	0.967
	14	0.934	0.969
	15 or more	0.940	0.970

*For each year the member is more than fifteen (15) years older than the contingent annuitant subtract .01 from the factor for Option 1 and subtract .006 from the factor for Option 2. (3-31-22)

TABLE C— Page 2 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO CONTINGENT ANNUITANT FACTORS For persons retiring on or after July 1, 1995			
	Age Difference in Years	Factors	
		Option 1	Option 2
	15*	0.690	0.810
	14	0.700	0.816
	13	0.710	0.822

TABLE C— Page 2 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO CONTINGENT ANNUITANT FACTORS For persons retiring on or after July 1, 1995			
	Age Difference in Years	Factors	
	12	0.720	0.828
	11	0.730	0.834
Member	10	0.735	0.840
Older	9	0.740	0.846
Than	8	0.745	0.852
Contingent Annuitant	7	0.750	0.858
	6	0.755	0.864
	5	0.760	0.870
	4	0.765	0.876
	3	0.770	0.882
	2	0.785	0.888
	1	0.800	0.894
	0	0.815	0.900
	1	0.835	0.915
	2	0.855	0.925
	3	0.875	0.935
	4	0.890	0.945
	5	0.900	0.950
Member	6	0.910	0.955
Younger	7	0.920	0.960
Than	8	0.930	0.965
Contingent Annuitant	9	0.940	0.967
	10	0.944	0.969
	11	0.946	0.971
	12	0.948	0.973
	13	0.950	0.975
	14	0.952	0.977
	15 or more	0.954	0.979

*For each year the member is more than fifteen (15) years older than the contingent annuitant subtract .01 from the

factor for Option 1 and subtract .006 from the factor for Option 2. (Amended 96)

(3-31-22)

TABLE C — Page 3 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO CONTINGENT ANNUITANT FACTORS For persons retiring on or after July 1, 2011			
	Age Difference in Years	Factors	
		Option 1	Option 2
	15*	0.729	0.851
	14	0.736	0.856
	13	0.743	0.861
	12	0.750	0.866
	11	0.757	0.871
Member	10	0.764	0.876
Older	9	0.771	0.881
Than	8	0.778	0.886
Contingent Annuitant	7	0.785	0.891
	6	0.792	0.896
	5	0.799	0.902
	4	0.808	0.908
	3	0.818	0.914
	2	0.833	0.920
	1	0.848	0.926
	0	0.863	0.932
	1	0.875	0.938
	2	0.887	0.944
	3	0.895	0.949
	4	0.902	0.954
	5	0.909	0.959
Member	6	0.916	0.963
Younger	7	0.923	0.966
Than	8	0.930	0.968
Contingent Annuitant	9	0.940	0.970
	10	0.944	0.972
	11	0.946	0.974

TABLE C— Page 3			
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO			
CONTINGENT ANNUITANT FACTORS			
For persons retiring on or after July 1, 2014			
	Age Difference in Years	Factors	
	42	0.948	0.976
	43	0.950	0.978
	44	0.952	0.980
	45 or more	0.954	0.982

*For each year the member is more than fifteen (15) years older than the contingent annuitant subtract .01 from the factor for Option 1 and subtract .01 from the factor for Option 2. (3-31-22)

545. PRE-ERISA VESTING RULES.

01. Termination or Partial Termination. Upon the effective date of any termination or partial termination or upon a complete discontinuation of contributions: ()

a. No persons who were not theretofore members shall be eligible to become members; ()

b. No further benefits shall accrue; and ()

c. The accrued benefits of all members not theretofore vested and not theretofore forfeited shall immediately become fully vested. ()

546. FORFEITURES.

Forfeitures will not be applied to increase the benefits any employee would otherwise receive under the Base Plan. ()

547. ACTUARIAL ASSUMPTIONS TO BE SPECIFIED.

Whenever the amount of any Base Plan benefit is to be determined on the basis of actuarial assumptions, such assumptions will be specified in rule in a manner that precludes employer discretion. ()

548. ~~COMPENSATION LIMIT (RESERVED)~~

~~**01. Limit.** Except for members of the system prior to July 1, 1996, as provided in Section 59-1302(31)(B), Idaho Code, the annual compensation of each participant taken into account in determining benefit accruals in any plan year beginning after December 31, 2001, shall not exceed two hundred thousand dollars (\$200,000). Annual compensation means compensation during the calendar year (the determination period). In determining benefit accruals for determination periods beginning before January 1, 2002, compensation shall be two hundred thousand dollars (\$200,000). (3-31-22)~~

~~**02. Limit Adjustment.** The two hundred thousand dollars (\$200,000) limit on annual compensation in Subsection 548.01 shall be adjusted for cost of living increases in accordance with Section 401(a)(17)(B) of the IRS Code. The cost of living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. (3-31-22)~~

549. DEFINED BENEFIT DOLLAR LIMITATION.

The “defined benefit dollar limitation” is one hundred sixty thousand dollars (\$160,000), as adjusted, effective January 1 of each year thereafter, under Section 415(d) of the IRS Code in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under Section 415(d) will apply to limitation years ending with or within the calendar year for which the adjustment applies. The “maximum permissible benefit” is the defined benefit dollar limitation (adjusted where required, as provided in Subsection

549.01 and, if applicable, in Subsections 549.02 through 549.04 of these rules). ~~(3-31-22)~~()

01. Less Than Ten Years of Service. If the participant has fewer than ten (10) years of participation in the plan, the defined benefit dollar limitation shall be multiplied by a fraction: ()

a. The numerator of which is the number of years (or part thereof) of participation in the plan; and ()

b. The denominator of which is ten (10). ()

~~**02. Benefit Begins Prior to Age Sixty-Two.** If the benefit of a participant begins prior to age sixty-two (62), the defined benefit dollar limitation applicable to the participant at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the participant at age sixty-two (62) (adjusted under Subsection 549.01, if required). The defined benefit dollar limitation applicable at an age prior to age sixty-two (62) is determined as set forth in IRS regulation under section 415(b)(2) of the IRS Code. This Subsection 549.02 does not apply to participants who have at least fifteen (15) years of credited service for which the member was classified as a police officer or firefighter.~~

~~(3-31-22)~~

03. Benefit Begins at Age Sixty-Five. If the benefit of a participant begins after the participant attains age sixty-five (65), the defined benefit dollar limitation applicable to the participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the participant at age sixty-five (65) (adjusted under Subsection 549.01, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age sixty-five (65) is determined as set forth in IRS regulation under section 415(b)(2) of the IRS Code. ()

04. Transition. Benefit increases resulting from the increase in the limitations of section 415(b) of the IRS Code shall be provided to all current and former participants (with benefits limited by section 415(b)) who have an accrued benefit under the plan immediately prior to the effective date of this Section (other than an accrued benefit resulting from a benefit increase solely as a result of the increases in limitations under section 415(b)). ()

550. COMPUTATION OF BENEFITS FOR EMPLOYEES OF WITHDRAWN EMPLOYER.

01. PERSI's Responsibility. PERSI's responsibility to a withdrawing political subdivision or governmental entity or its employees is limited to the vested accrued actuarial benefits of the system's members upon the date of complete withdrawal, ~~Section 59-1326(10), Idaho Code.~~ ~~(3-31-22)~~()

02. Withdrawal Liability Calculations. On the occasion that a withdrawing political subdivision or governmental entity fails to pay, in full with accrued interest from date of withdrawal, the withdrawal liability calculated in accordance with Section 59-1326(7), Idaho Code, PERSI shall exhaust all efforts to collect the outstanding withdrawal liability as follows: ()

a. Collect the full withdrawal liability from withdrawing political subdivision or governmental entity at date of withdrawal. If full withdrawal liability is not paid, then; ()

b. Contract with withdrawing political subdivision or governmental entity, in accordance with section 59-1326(9) and file a lien on the assets of the withdrawing political subdivision or governmental entity. If scheduled payments are not timely made or assets are insufficient or unavailable, then; ()

c. PERSI will pursue collection efforts against the authorizing state agency, political subdivision or governmental entity that caused the withdrawing political subdivision or governmental entity to be formed. If these collection efforts are ineffective, then; ()

d. PERSI will cause an actuarial study to be performed for the withdrawing political subdivision or governmental entity and its employees to determine the actuarial value of the accrued benefits at time of withdrawal and will reduce an employee's benefit to match funded status. ()

551. COMPUTING VALUE OF SICK LEAVE.

For those members who accrue sick leave based upon each month of service, the rate of pay for purposes of computing the monetary value of a retired member's unused sick leave as outlined in Sections 59-1365, 67-5333, and 33-2109A, Idaho Code, shall be the base hourly rate of compensation reported by the employer during the month of separation from employment prior to retirement, not including any temporary increases, bonuses, or payoffs. For those members employed on a contract basis under Section 33-1228, Idaho Code, the rate of pay for purposes of computing the monetary value of a retiring member's unused sick leave based upon each month of service shall be determined at a daily rate by dividing the annual contract amount by the required days of work. No temporary increases, bonuses or payoffs shall be included in the contract amount. Where the daily rate is affected by changes in the work week such as adoption of a four (4) day work week or similar events, adjustments shall be made to convert the daily rate to maintain equity within the pool. No other forms of leave may be converted to sick leave or otherwise considered in computing the value of unused sick leave. ()

552. SICK LEAVE FUNDING RATES.

The sick leave pools shall be funded by employer contributions as follows: ()

01. State Agencies and Junior College Districts. All employer groups participating in the pools established by Sections 33-2109A and 67-5333, Idaho Code, shall contribute point sixty-five percent (.65%) of employee covered payroll. ()

02. Schools. All employer groups participating in the pool established by Section 33-1228, Idaho Code, shall contribute the percentage of employee covered payroll based on the number of days of paid sick leave permitted during the contract year for certified teachers as set forth in the following table:

Beginning:	July 1, 2006
9-10 days	1.16%
11-14 days	1.26%
More than 14 days	Individual rate to be set by the Retirement Board based on current cost and actuarial data and reviewed annually

Where a four (4) day work week or similar policies have been adopted, adjustments shall be made to convert the number of days of paid sick leave to the contribution level necessary to maintain equity within the pool. ()

03. Subdivisions. All political subdivision or government entity groups participating in the pool established by Section 59-1365, Idaho Code, shall make contributions as provided in Section 578. ()

553. LIMITATION ON INSURANCE PROGRAMS.

The health, accident, and life insurance programs maintained by state agencies, political subdivisions or government entities as outlined in Sections 59-1365, 33-1228, and 33-2109A, Idaho Code, are limited to plans where the policy holder is the state agency, political subdivision or government entity or a consortium of state agencies, political subdivisions or government entities. Insurance programs outlined in Section 67-5333, Idaho Code, shall be maintained by the state agency, political subdivision or government entity. The board may require plans to sign an agreement before participating. ()

554. PAYMENT OF INSURANCE PREMIUMS.

Upon certification by the state agency, political subdivision or government entity and the insurance carrier that a plan qualifies under Section 553 of this subchapter, the board may pay the monthly premiums for a retired member using unused sick leave account funds as prescribed by Idaho Code. ()

01. Adjustments. Coverage and premium changes or adjustments must be submitted to PERSI no less than thirty (30) days prior to their effective date unless PERSI has previously agreed in writing to a shorter period. ()

02. Duration of Payments. Premium payments will continue to be made from the unused sick leave account until credits are insufficient to make a premium payment, or until the retiree's death, whichever first occurs.

()

555. SEPARATION BY REASON OF RETIREMENT.

Unused sick leave benefits are credited only to employees who are eligible to retire at the time they separate from the state agency, political subdivision or government entity. When an employee separates from service and does not immediately retire, unused sick leave benefits are credited to the member but not available for use unless the member actually retires without intervening employment resulting in PERSI participation. The existence of available unused sick leave credits does not necessarily mean they are usable. A member must also be eligible to participate in the retiree plan offered by the state agency, political subdivision or government entity from which the member retired. Except for school district employees transferring from one (1) district to another, unused sick leave credits may not be transferred from one (1) state agency, political subdivision or government entity to another. If a member negates their retirement under Section 541 and returns to work for a new PERSI state agency, political subdivision or government entity, unused sick leave credits are also negated and eligibility for unused sick leave credits must be reestablished with the new state agency, political subdivision or government entity. ()

556. PROHIBITION AGAINST CASH OPTION.

All state agencies, political subdivisions or government entities participating in any PERSI administered sick leave pool are prohibited from offering or permitting any employee to convert unused sick leave to cash, other forms of leave, or any other benefit, even if the employee is not eligible to receive credits. Failure to comply with this prohibition will result in the state agencies, political subdivisions or government entities inability to participate in PERSI administered unused sick leave pools. ()

557. -- 575. (RESERVED)

576. PARTICIPATION IN SUBDIVISION UNUSED SICK LEAVE POOL.

Any PERSI state agency, political subdivision or government entity meeting the following requirements may elect to participate in the unused sick leave pool authorized by Section 59-1365, Idaho Code: ()

01. No Current Plan. The state agency, political subdivision or government entity does not participate in any other statutorily created plan that offers benefits for unused sick leave, including but not limited to, those plans created under Sections 33-1228, 33-2109, and 67-5333, Idaho Code. ()

02. All Inclusive Participation. All of a participating state agencies, political subdivisions or government entities employees who are PERSI members and who accrue sick leave must be participants in the plan, except that state agencies, political subdivisions or government entities may exclude certain distinctive classes of employees for legitimate business reasons. For example, a city could exclude employees covered by a collective bargaining agreement, or a county may choose to exclude elected officials. ()

03. No Other Options for Unused Sick Leave. No employee may be given any option to receive benefits from unused sick leave other than through this plan. For example, no employee, other than those properly excluded under Subsection 576.02, may be given the option of exchanging sick leave for cash or other forms of payment or leave. ()

04. Fixed Annual Accrual of Sick Leave. State agency, political subdivision or government entity must comply with a policy that offers a fixed amount of sick leave annually that is applicable to all employees or employee groups. A "personal leave" option that fails to distinguish between sick, vacation, or other forms of leave is not permitted. ()

05. Medicare Eligible Retirees. State agencies, political subdivisions or government entities plan must provide coverage to all retired employees eligible for unused sick leave credits, including retirees that become Medicare eligible. ()

06. Annual Application. State agency, political subdivision or government entity must annually update and submit an application for participation in the Subdivision Unused Sick Leave Pool on the form prescribed by PERSI. ()

577. OPERATION OF SUBDIVISION POOL.

Upon separation from employment by retirement, in accordance with Chapter 13, Title 59, Idaho Code, every employee of a participating state agency, political subdivision or government entity shall, upon payment by the state agency, political subdivision or government entity under Section 578, receive a credit for unused sick leave in the same manner and under the same terms as provided in Section 67-5333(1), Idaho Code. ()

578. FUNDING OF SUBDIVISION POOL.

Participating state agencies, political subdivisions or government entities shall, within ten (10) days of retiree's last day in pay status, pay to PERSI a sum equal to the retiree's unused sick leave credit, together with any administrative fees the board may require. Investment earnings on funds paid into this pool will remain in the pool, together with any reversions due to the death of a retiree, and may be used by the board to pay some or all administrative costs. ()

579. TERMINATION, WITHDRAWAL, OR REMOVAL FROM SUBDIVISION POOL.

Any state agency, political subdivision or government entity failing to meet the requirements of participation provided by Section 576 shall be terminated from participation in the Subdivision Pool. Any state agency, political subdivision or government entity failing to meet the funding requirements provided by Section 578 shall be terminated from participation in the Subdivision Pool, provided however, a state agency, political subdivision or government entity may submit a detailed explanation for its failure to meet the funding requirements as required in Section 578 and subject to PERSI approval. State agencies, political subdivisions or government entities that have withdrawn or have been terminated shall not be allowed to rejoin. ()

580. -- ~~599~~600. (RESERVED)

~~600. PAYMENT DATE OF RETIREMENT ALLOWANCE FOR FRF MEMBERS.~~

~~A paid firefighter who retires under the provisions of Chapter 14, Title 72, Idaho Code, is entitled to a retirement allowance computed from the date following separation from employment, payable at the end of the calendar month following separation from employment. (3-31-22)~~

601. FIREFIGHTER RETIREMENT ALLOWANCE.

Notwithstanding Sections 525 and 526 of this subchapter, the retirement allowances of firefighter members, as defined by Section 59-1391(b), Idaho Code, shall be determined pursuant to the provisions of Chapter 14, Title 72, Idaho Code. ()

602. REEMPLOYMENT OF RETIRED FRF FIREFIGHTER.

A paid firefighter retired under the provisions of Chapter 14, Title 72, (FRF), Idaho Code, who returns to employment as a paid firefighter with the same fire department from which retired shall be considered reemployed in the manner provided for PERSI members by Section 59-1356(1), Idaho Code. Retirement benefits shall then terminate and contributions shall again commence under conditions specified prior to retirement. The terminated benefit shall resume upon subsequent retirement with adjustments made in the manner prescribed by Section 59-1356(1), Idaho Code, as they would apply to the member's retirement benefit entitlement computed under the provisions of Chapter 14, Title 72, Idaho Code.

~~Statutory References: Section 59-1356, Idaho Code.~~

~~(3-31-22)()~~

603. -- 624. (RESERVED)

625. PURCHASE OF SERVICE GENERALLY.

No member may purchase more than forty-eight (48) months of membership service, whether purchased under Section 59-1362, or 59-1363, Idaho Code, or a combination thereof. In all cases, the cost of purchasing service shall be the full actuarial costs, as determined by the board, of providing additional benefits resulting from the purchased service. Service may only be purchased at the time of retirement. In no event can a member revoke a purchase of service after payment has been made. ()

626. TIME OF RETIREMENT.

Within ninety (90) days before a member's effective date of retirement, the member may request the cost of service to be purchased. Costs provided for purchased service are valid only for the effective date requested. Purchased service will be calculated into the member's benefit only to the extent that it is paid by the effective date. In no event shall service be credited for which payment has not been made. Service may be purchased with after-tax dollars or with

eligible rollover distributions. The member's service class at the time of purchase determines the class of service that may be purchased. ()

627. RETIREMENT DELAYED OR NEGATED AFTER PURCHASE.

If a member purchases service and thereafter revokes their application for retirement or negates their retirement as provided in Rule 541, the contributions made to purchase the service shall remain in the system until a distributable event occurs. If the distributable event results in payment of a monthly retirement benefit or an optional death benefit, the purchase price of the service previously purchased will be recalculated based on factors existing on the date the new benefit becomes effective. If, based on the new factors, the purchase price is higher than previously determined, the number of months purchased will be reduced to reflect the higher cost unless the member elects to pay the difference. If the purchase price is lower, the difference will be paid to the member as a lump-sum payment within sixty (60) days after the date of retirement unless the member elects to convert the difference into additional months and can do so without exceeding the forty-eight (48) month limit, the IRS limit referenced in Subsection 705.05, or any other statutory limitation, including the limitation in Section 59-1342(6), Idaho Code. ()

628. TREATMENT OF PURCHASE OF SERVICE CONTRIBUTIONS.

Contributions made for purposes of purchasing service, and interest earnings thereon, are not considered for purposes of determining death benefits under Section 59-1361(3), Idaho Code, and distributions under Section 59-1309(5), Idaho Code. When determining death benefits under Section 59-1361(3), Idaho Code, first calculate two hundred percent (200%) of accumulated contributions, excluding contributions and interest related to purchased service, then add member contributions and interest related to purchased service. Member contributions and interest will also be included in any separation benefit. In no event shall employer contributions for purchased service be included in any separation benefit or lump-sum death benefit. ()

629. EMPLOYER PARTICIPATION.

State agency, political subdivision or government entity participation must be in the form of lump-sum payments at the time of retirement. In the event a state agency, political subdivision or government entity makes a contribution on behalf of a member and a distribution other than periodic payments occurs prior to the actual retirement effective date, the state agency, political subdivision or government entity may claim a credit against future contributions equal to the amount of the contribution. State agency, political subdivision or government entity contributions must be accompanied by or preceded by a written statement endorsed by the governing body or officer of the state agency, political subdivision or government entity verifying that the participation is properly authorized and that the state agency, political subdivision or government entity indemnifies PERSI against any loss resulting from failure of the state agency, political subdivision or government entity, or any person acting on its behalf, to act within its authority. ()

630. ADDITIONAL LIMITS ON PURCHASED SERVICE.

The Internal Revenue Code imposes limits on the amount of retirement benefits that can be paid to a retiree under a defined benefit plan. Benefits acquired through purchase of service are subject to these limits for some purposes. In no event can a member purchase service that would result in the member exceeding the limits imposed in Section 415(n)(1)(A) of the IRS Code. In addition, a member's initial retirement benefit, including purchased service, continues to be subject to the limitation in Section 59-1342(6), Idaho Code. ()

631. -- 649. (RESERVED)

SUBCHAPTER G – PERSI GAIN SHARING RULES
Rules 650 through 755

650. EXISTENCE OF EXTRAORDINARY GAINS.

The existence of extraordinary gains triggers the possibility that allocations will be made as provided in Section 59-1309, Idaho Code. However, the existence of extraordinary gains does not obligate the retirement board to make an allocation. The Board may choose not to allocate extraordinary gains, or it may choose to allocate all or part of the extraordinary gains. Extraordinary gains exist when, at the close of the fiscal year, the value of plan assets exceeds plan liabilities as determined by the actuary, plus a sum necessary to absorb a one (1) standard deviation market event without increasing contribution rates, as determined by the Board. The amount of extraordinary gains available for possible distribution equals the amount by which the assets exceed the sum of the liabilities and the one standard deviation. ()

651. VALUE OF PLAN ASSETS.

This is the total assets held in the PERSI base plan, as reported in the actuarial valuation at the end of the fiscal year. ()

652. PLAN LIABILITIES.

This is the actuarial liability of the PERSI base plan, including but not limited to, the cost of the proposed COLA to be effective in March following the close of the fiscal year, the cost of any benefit enhancements to the base plan approved by the legislature, and the cost of actuarial gains and losses, as reported in the actuarial valuation for the fiscal year. ()

653. ONE STANDARD DEVIATION.

This is the amount of reserve necessary to absorb normal market fluctuations and is a function of the risk associated with investment holdings and strategies, and will be determined by the Board based on those factors. ()

654. BOARD DISCRETION.

The Board retains full discretion in determining whether to allocate extraordinary gains when they exist. Because of the broad range of factors that might be relevant to such a determination, and to assure that the Board will not be limited in exercising its discretion, these rules do not attempt to identify any of the factors that might be considered in the Board's fiduciary capacity. When extraordinary gains exist, the Board will decide whether they will be allocated no later than the first day of December following the end of the fiscal year. Such decision shall be in writing and shall constitute an amendment to the plan document for purposes of the Internal Revenue Code of 1986, as amended, or any successor thereto. In the absence of any such decision, the allocation for that year shall be zero (0.00). ()

655. -- 674. (RESERVED)

675. ALLOCATION BETWEEN GROUPS.

If extraordinary gains exist, and the Board determines that all or part of such gains should be allocated, an allocation will be made among the three (3) groups identified by Section 59-1309, Idaho Code. The three (3) groups and allocations are: ()

- a. Active PERSI members - 38 percent (38%); ()
- b. PERSI retirees - twelve percent (12%); and ()
- c. PERSI employers - fifty percent (50%) ()

676. -- 699. (RESERVED)

700. ACTIVE MEMBER ALLOCATION.

After the amount to be allocated to the active member group has been determined, it shall be allocated among the members of the group. The active member allocation determines each member's initial share before considering any applicable individual limits. Each member's initial share shall be determined by dividing that member's accumulated contributions in the base plan at the close of the fiscal year by the total accumulated contributions in the base plan of all members of the group at the close of the fiscal year, multiplied by the amount allocated to the active member group. In no event shall a member's initial share, before considering individual limits, exceed the maximum annual contribution limit under Section 415(c) of the IRS Code applicable for the limitation year. ()

701. MINIMUM ALLOCATION AMOUNT.

Due to the costs associated with maintaining individual choice accounts, no allocation shall be made to any member whose allocation share does not exceed thirty-eight dollars (\$38) after considering individual limits, unless the member had a PERSI choice account on the last day of the fiscal year and has not withdrawn funds before the allocation date. ()

702. ACTIVE MEMBER.

~~A member participates in the active member allocation only if he is an active member as defined in this subchapter. Whenever a member is placed on leave of absence under circumstances making that member eligible for benefits~~

~~under USERRA, the employer shall notify PERSI in writing within thirty (30) days and attach a copy of the member's orders.~~ A member participates in the active member allocation only if *such member is active and has at least twelve (12) months of accrued membership service on the last day of the fiscal year.* For purposes of allocating extraordinary gains, active members also include: ()

a. Seasonal employees who have a pattern of employment that includes at least six (6) months of membership service in each of the preceding three (3) consecutive years; and ()

b. Employees who are on leave of absence on the last day of the fiscal year and either: ()

i. Return to active service for at least thirty (30) days before *the December 31st* immediately following the end of the fiscal year; or ()

ii. Are entitled to benefits under the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA). ()

703. ACCUMULATED CONTRIBUTIONS.

For purposes of allocating extraordinary gains within the active member group, accumulated contributions do not include contributions or interest related to the purchase of permissive service credits or contributions or interest in the Choice Plan or accounts. ()

704. TRANSFER TO DEFINED CONTRIBUTION CHOICE ACCOUNTS.

After each member's initial share has been determined, it will be transferred to an individual account as permitted under Section 414(k) of the IRS Code, subject to individual limits imposed by the Internal Revenue Code. The Board may transfer allocations anytime after necessary compensation data is received and processed by the Board. ()

705. LIMITATIONS ON ALLOCATION.

In no event shall a member's final allocation exceed the limits imposed by Section 415(c) of the IRS Code, based on compensation earned during the calendar year that included the end of the fiscal year. ()

706. INTERVENING RETIREMENT.

When a member is included in the active member pool but retires prior to the transfer of allocations, the member's allocation will be made as a one-time payment directly to the member rather than a transfer to an individual account. Such allocations will not be limited by Section 705 but will be subject to the limitations of Section 729. ()

707. INTERVENING WITHDRAWAL OF CONTRIBUTIONS.

When a member is included in the active member pool but terminates prior to the transfer of allocations, the allocation will be made to the member's individual account if the member has not withdrawn contributions from the Base account prior to the date of transfer of the allocation. No member who has withdrawn contributions from the Base account prior to the transfer of the allocation is eligible to receive an allocation. ()

708. INTERVENING DEATH OF ACTIVE MEMBER.

When a member would have been included in the active member allocation but dies prior to the transfer of allocations, no allocation shall be made to the member, beneficiary or estate except that an optional death benefit recipient will receive the active member's allocation as limited by Section 729. ()

709. TREATMENT OF GAIN SHARING ALLOCATIONS IN THE CHOICE ACCOUNT.

Gain sharing allocations transferred to individual Choice Accounts have no effect on an individual's Base Plan benefit. Gain sharing allocations, and the earnings thereon, will be accounted for separately from other Choice Plan contributions but will be treated as one plan for purposes of reporting, investing, distributions, and fees to the extent they are applicable. Related provisions of the Plan adopted by the Board to facilitate voluntary and employer contributions are applicable to gain sharing allocations to the extent not inconsistent with these rules and Sections 59-1308 and 59-1309, Idaho Code. However, no loans or hardship withdrawals may be taken against gain sharing account balances. ()

710. -- 724. (RESERVED)

725. RETIREE ALLOCATION.

After the amount to be allocated to the retiree group has been determined, it shall be allocated among the members of the group. The retiree allocation determines each member's share before considering any applicable individual limits. Each member's initial share shall be determined by dividing that retiree's monthly benefit at the close of the fiscal year by the total monthly benefits payable to all members of the group at the close of the fiscal year, multiplied by the amount allocated to the retiree group. ()

726. RETIREE.

For purposes of allocating extraordinary gains, a member must be a retiree as defined in this subchapter. ()

727. MONTHLY BENEFIT.

This is the monthly benefit for the last month of the fiscal year but does not include benefits related to other months that may also have been paid during the last month of the fiscal year. In no event shall a retiree's share be determined based on more than the retiree's annual benefit, not including any gain sharing allocations, divided by twelve (12). ()

728. PAYMENT OF ALLOCATION.

After each retiree's initial share has been determined, it will be paid no later than February 1 following the close of the fiscal year directly to the retiree either together with the retiree's monthly benefit or separately, subject to individual limits imposed by the Internal Revenue Code. ()

729. LIMITATIONS ON ALLOCATION.

Prior to allocation, a retiree's initial share shall be further limited as necessary to comply with the limits of Section 415(b) of the IRS Code. ()

730. INTERVENING DEATH OF A RETIREE.

When a retiree is included in the retiree allocation but dies prior to the transfer of allocations, no allocation shall be made unless benefit payments are continuing to be made to a contingent annuitant. ()

731. INTERVENING REEMPLOYMENT.

When a retiree is included in the retiree allocation but becomes reemployed as defined in Section 59-1356, Idaho Code, prior to the date of distribution, the retiree allocation shall be made in the form of an active member allocation, and shall be subject to active member limitations. ()

732. NEGATED RETIREMENT.

Gain sharing allocations received by a retiree are not included in the amounts required to be repaid when negating retirement under Section 541. ()

733. -- 749. (RESERVED)

750. EMPLOYER ALLOCATION.

After the amount to be allocated to the employer group has been determined, it shall be allocated among the members of the group. Each employer's share shall be determined by dividing that employer's contribution liability for the fiscal year by the total contribution liability for all members of the group for the fiscal year, multiplied by the amount allocated to the employer group. ()

751. EMPLOYER.

Participation in the employer pool is limited to those entities defined as an employer in this subchapter. ()

752. CONTRIBUTION LIABILITY.

This includes only employer contributions that are accrued during the fiscal year and required to be paid by Section 59-1322, Idaho Code, unreduced by gain sharing credits. It does not include contributions made to fund sick leave pools, to pay costs of other plans such as the Firefighters Retirement Fund, or to contributions required by Sections 33-107A and 33-107B, Idaho Code. Only adjustments related to fiscal year contributions will be considered. ()

753. CREDIT OF ALLOCATION.

After each employer's share has been determined, it will be credited against the employer's future contribution invoices. The credits shall be applied only to offset future employee and employer contributions required to be remitted by Section 59-1325(1), Idaho Code, until the credit is exhausted. An employer may elect to use the credits solely against employer contributions to the extent that no carry-over credits (as described in Section 754) result. ()

754. CARRY-OVER OF CREDIT.

Should the credit exceed the employer's contribution invoices for the succeeding twelve (12) month period, any remaining credits will carry over to the following year together with an additional credit representing an interest payment. The interest credit shall equal the balance of remaining credits multiplied by a ratio representing the regular rate of interest. This process shall be repeated annually until all credits have been used. ()

755. WITHDRAWAL OF EMPLOYER.

When an employer is included in the employer pool but withdraws from the system as provided in Section 59-1326, Idaho Code, prior to allocation of credits, the employer shall not be entitled to receive any credits. When an employer is entitled to carry-over credits but withdraws prior to using all its credits, it shall not be entitled to additional credits based on interest payments. ()

756. -- 999. (RESERVED)

IDAPA 59 – PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO

59.02.01 – RULES FOR THE JUDGES’ RETIREMENT FUND

DOCKET NO. 59-0201-2301 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2024 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. The pending rule will become final and effective upon the adjournment, *sine die*, of the Second Regular Session of the Sixty-seventh Idaho Legislature.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1301, 59-1314, 59-1372, 59-1383, and 59-1392, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There is a change to 59.02.01.002 to reflect that the rule is now Rule 2 not Rule 3. There is a change to add a new Subsection 59.02.01.010.17 to the pending rule. This addition was missed in the proposed rule and is necessary to accurately reflect service credit. There is a change to correct typographical and grammatical errors to Section 59.01.02.100 and 59.01.02.402.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the November 1, 2023, Idaho Administrative Bulletin, [Vol. 23-11, pages 154 - 168](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, this pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

Does not apply to this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year:

The change in this rule will not have any fiscal impact on the state General Fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact: Cheryl George, (208) 287-9231.

DATED this 27th of November, 2023.

Don Drum
Executive Director
Public Employees Retirement System of Idaho
P.O. Box 83720, Boise, ID 83720-0078
Phone: (208) 287-9230
Fax: (208) 334-3804

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Sections, 59-1301, 59-1314, 59-1372, 59-1383 and 59-1392.

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 November 15, 2023.

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

JRF Rule, IDAPA 59.02.01.02, 04, .05, .06, .07, and .11 are deleted as unnecessary. Rule 59.02.01.10.04 is deleted since this rule is not applicable to the JRF as there are not purchase options by statute. Rule 59.02.01.10.64 is deleted because this rule is not applicable because judges do not have purchase options. Rule 59.02.01.12 is amended to make specific reference to the JRF. New definition is added for "Inactive Member and "Retired Member". The definition for "Member" is revised. The definition of "Normal Retirement Age" is deleted because the JRF plan makes no distinction between early and normal retirement. Rule 59.02.01.100.02.a is amended to define the commencement year when a member is required to take a minimum distribution as defined in the Internal Revenue Code section 401(a). This change is a result of Secure 2.0 Act 2022. Rule 59.02.01.100 new subsection .03 is added to add the enforcement mechanism for when PERSI has to issue payments under this section and to specify the retirement option that would be selected. Rule 59.02.01.100.03 becomes the new subsection .04 and is amended to simplify the language used and make it consistent with proper terms. Rule 59.02.01.100 subsection .05 and .06 are deleted since if any prior payments were made, the distribution would not be issued as payments would have continued. Rule 59.02.01.102 is deleted because there aren't any options for annual additions in the JRF plan. JRF doesn't have a purchase of service. Rule 59.02.01.103.01 deleted the last sentence because the only option for a forced distribution would be a lump-sum payment direct to the member or the initiation of monthly retirement benefits. There isn't an option for a forced distribution to be made as a rollover to another plan. Rule 59.02.01.103.03 is deleted because the JRF doesn't allow for post-tax contributions to be made to the plan, so this is unnecessary. Rule 59.02.01.252 is deleted because it refers to tables that are also being deleted. Rule 59.02.01.300 and .301 are deleted as the statute provides that PERSI Board sets the contribution rates, and the rates will be posted on the PERSI web page. Rule 59.02.01.352,.359, are amended to provide gender inclusive language. Rule 59.02.01.401 is deleted because COLAs are in statute (1- 2001(2)(a)(ii - iii). Rule 59.02.01.403 is amended by removing the last sentence as it is redundant. It is part of the Required Minimum Distribution section. Appendix A is deleted as it is not needed in the rules and the table will be available on the PERSI website.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year: The change in this rule will not have any fiscal impact on the state General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the September 6, 2023, Idaho Administrative Bulletin, 23-9 pages 911-912.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule(s), contact Cheryl George, (208) 287-9231.

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 November 22, 2023.

DATED this 6th day of October, 2023.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 59-0201-2301

59.02.01 – RULES FOR THE JUDGES' RETIREMENT FUND

SUBCHAPTER A – GENERAL PROVISIONS
Rules 001 through 099

- 000. LEGAL AUTHORITY (RULE 0).** Section 1-2012, Idaho Code. ()
- 001. TITLE AND SCOPE (RULE 1).**
- 01. Title.** The title of this chapter is IDAPA 59.02.01, "Rules for the Judges' Retirement Fund." ()
- 02. Scope.** This chapter relates to retirement under the Judges' Retirement Fund. ()
- 002. ADMINISTRATIVE APPEAL (RULE 2).** Administrative appeals are conducted pursuant to IDAPA 59.01.01. ()
- 003. -- 009. (RESERVED)**
- 010. DEFINITIONS (RULE 10).** The following definitions apply to this chapter: ()
- 01. Accrued Benefit.** The actuarial value of the retirement benefit to which the Member is entitled under the Judges' Retirement Fund upon attainment of Normal Retirement Age. ()
- 02. Active Member.** Each justice or judge who participates in the Judges' Retirement Fund as provided by Idaho Code. ()
- 03. Administrator.** The Board. ()
- 04. Beneficiary.** The designated person (or, if none, the Member's estate) who is entitled to receive benefits under the Plan after the death of a Member. ()
- 05. Board.** The retirement board established in Section 59-1304, Idaho Code. ()
- 06. Code.** The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to Sections of the Code are to such Sections as they may from time to time be amended or renumbered. ()
- 07. Compensation.** All cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Member's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Member's gross income for the calendar year but for a compensation reduction election under Sections 125, 132(f), 401(k), 403(b), or 457(b) of

the Code. ()

08. Contingent Annuitant. The person designated by a Member under certain retirement options to receive payments upon the death of the Member. The person so designated must be born and living on the effective date of retirement. ()

09. Designated Beneficiary. The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-4, Q&A-4, of the Treasury regulations. ()

10. Employer. The State of Idaho Judicial Branch. ()

11. Inactive Member. A former active member who is not receiving a retirement allowance or has not received a refund of contributions. ()

12. Judges' Retirement Fund. The Judges' Retirement Fund established under Title 1, Chapter 20, Idaho Code, and rules applicable to the Judges' Retirement Fund. The Judges' Retirement Fund is intended to satisfy Code Section 401(a) as applicable to governmental plans described in Code Section 414(d). It is maintained for the exclusive benefit of Members and their beneficiaries. ()

13. Member. An active member, inactive member, or a retired member. ()

14. Plan. The plan of benefits under the Judges' Retirement Fund. ()

15. Required Beginning Date. The date specified in Rule 100 of these rules. ()

16. Retired Member. A former active member receiving retirement compensation. ()

17. Service Credit. Being shown on Employer's payroll as an Active Member receiving a salary. For each calendar month, service is credited only when the Active Member is employed for fifteen (15) days or more during the calendar month. ()

18. Severance from Employment. The date that the Member dies, retires, or otherwise has a separation from employment with the Employer, as determined by the Administrator (and taking into account guidance issued under the Code). ()

011. -- 099. (RESERVED)

SUBCHAPTER B – DISTRIBUTIONS
Rules 100 through 250

100. REQUIRED MINIMUM DISTRIBUTIONS (RULE 100).

01. Default Application of Federal Requirements. With respect to distributions under the Judges' Retirement Fund, and except as provided in Subsection 100.06, the Judges' Retirement Fund will apply the minimum distribution requirements of Section 401(a)(9) of the Internal Revenue Code (Code) in accordance with a good faith interpretation of Section 401(a)(9), notwithstanding any provision of the Judges' Retirement Fund to the contrary. ()

02. Required Beginning Date. Except as otherwise provided in Subsections 100.03 through 100.06, distributions under the Judges' Retirement Fund shall begin not later than April 1 following the later of: ()

a. The commencement year, which is defined as the year in which a member reaches the applicable age, as defined in Internal Revenue Code Section 401(a) as now in effect and thereafter amended. ()

b. The year in which they retire. ()

03. PERSI Selects Retirement Option. Any member required to take minimum distributions, as required in this Section 100 and fails to complete and submit an approved retirement application and select either a regular or optional retirement allowance by April 1 following the later of the commencement year or the year the member separates from employment, the member shall be deemed to have made the following selection. ()

a. If single, a regular retirement allowance and no other selection shall be required or permitted. ()

b. If married, a one hundred percent (100%) spousal option and no other selection shall be required or permitted unless proof is provided that the spouse has no community property interest in the benefit. ()

04. Lifetime Distributions. Distribution shall be made over the life of the Member or the lives of the Member and their contingent annuitant. ()

05. Timing of Required Distributions. A required distribution shall be deemed to have been made during the Commencement Year if actually made by the following April 1, but such delayed distribution shall not change the amount of such distribution, and the distribution otherwise required during the subsequent calendar year shall be calculated as if the first distribution had been made on the last day of the Commencement Year. ()

06. Death Benefits. All death benefits payable in a lump sum will be distributed as soon as administratively practicable after request, but must in any event be distributed within fifteen (15) months of the member's death, unless the identity of the beneficiary is not ascertainable. ()

101. MAXIMUM LIMITATIONS ON BENEFITS (RULE 101).

Beginning effective January 1, 2002, the "defined benefit dollar limitation" is one hundred sixty thousand dollars (\$160,000), as adjusted, effective January 1 of each year thereafter, under Section 415(d) of the Internal Revenue Code (Code) in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under Section 415(d) will apply to limitation years ending with or within the calendar year for which the adjustment applies. The "maximum permissible benefit" is the defined benefit dollar limitation (adjusted where required, as provided in Subsection 101.01 and, if applicable, in Subsections 101.02 through 101.04). ()

01. Less Than Ten Years of Service. If the Member has fewer than ten (10) years of participation in the Judges' Retirement Fund, the defined benefit dollar limitation shall be multiplied by a fraction: ()

a. The numerator of which is the number of years (or part thereof) of participation in the Judges' Retirement Fund; and ()

b. The denominator of which is ten (10). ()

02. Benefit Begins Prior to Age Sixty-Two. If the benefit of a Member begins prior to age sixty-two (62), the defined benefit dollar limitation applicable to the Member at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the Member at age sixty-two (62) (adjusted under Rule 101.01, if required). The defined benefit dollar limitation applicable at an age prior to age sixty-two (62) is determined as set forth in IRS regulation under Section 415(b)(2) of the Code. ()

03. Benefit Begins at Age Sixty-Five. If the benefit of a Member begins after the Member attains age sixty-five (65), the defined benefit dollar limitation applicable to the Member at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the Member at age sixty-five (65) (adjusted under Rule 101.01, if required.) The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age sixty-five (65) is determined as set forth in IRS regulation under Section 415(b)(2) of the Code. ()

04. Transition. Benefit increases resulting from the increase in the limitations of Section 415(b) of the Code shall be provided to all current and former Members (with benefits limited by Section 415(b)) who have an accrued benefit under the Judges' Retirement Fund immediately prior to the effective date of this Rule (other than an accrued benefit resulting from a benefit increase solely as a result of the increases in limitations under Section

415(b.)) ()

05. Aggregation. If any member participates in two (2) or more qualified defined benefit plans maintained by the employer (or a predecessor employer), the combined benefits from all such plans may not exceed the "maximum permissible benefit" described in this Rule 101. ()

102. ROLLOVER DISTRIBUTIONS (RULE 102).

01. Direct Rollovers. A Member of the Judges' Retirement Fund or a beneficiary of a Member (including a Member's former spouse who is the alternate payee under an approved domestic relations order) who is entitled to an eligible rollover distribution may elect, at the time and in the manner prescribed by the Administrator, to have all or any portion of the distribution paid directly to an eligible retirement plan specified by the Member in a direct rollover. ()

02. Eligible Rollover Distribution Defined. For purposes of this Rule, an eligible rollover distribution means any distribution of all or any portion of a Member's account balance, except that an eligible rollover distribution does not include (a) any installment payment for a period of ten (10) years or more, (b) any distribution made as a result of an unforeseeable emergency, or (c) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under Code Section 401(a)(9). In addition, an eligible retirement plan means an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, a qualified trust described in Section 401(a) of the Code, an annuity plan described in Section 403(a) or 403(b) of the Code, or an eligible governmental plan described in Section 457(b) of the Code, that accepts the eligible rollover distribution. Effective January 1, 2008, an eligible retirement plan shall also mean a Roth IRA described in Section 408A of the Code. ()

03. Alternate Payees. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse, who is the alternate payee under a domestic retirement order, approved as provided in Rule 402 are distributees with regard to the interest of the spouse or former spouse. ()

04. Transfers to Non-Spouse Beneficiaries. This Rule 103.05 applies to distributions made on or after July 1, 2008. Notwithstanding any provision of the Judges' Retirement Fund to the contrary that would otherwise limit the options of the Beneficiary of a deceased Member who is not the Member's spouse, the administrator shall, upon the request of such a Beneficiary transfer a lump sum distribution to the trustee of an individual retirement account established under Section 408 of the Code in accordance with the provisions of Code Section 402(e)(11). ()

103. -- 250. (RESERVED)

SUBCHAPTER C – ASSUMPTIONS
Rules 251 through 299

251. ACTUARIAL ASSUMPTIONS TO BE SPECIFIED (RULE 251).
Whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, such assumptions will be specified in a manner that precludes employer discretion. ()

252. -- 299. (RESERVED)

SUBCHAPTER D – CONTRIBUTION RATES
Rules 300 through 349

300. VACATION AND CONTRACTUAL PAYMENTS SUBJECT TO CONTRIBUTIONS (RULE 300).
Compensation paid for vacation is salary subject to employee and employer contributions. ()

301. REPORTS (RULE 301).
The Employer shall provide to the Board such reports, including compensation and contribution reports, as are required by the Board to verify contributions benefits required or provided and unless extended in writing by the

executive director such reports shall be provided no later than five (5) business days after each pay date. ()

302. -- 349. (RESERVED)

SUBCHAPTER E – DISABILITY RETIREMENT
Rules 350 through 399

350. APPLYING FOR DISABILITY RETIREMENT (RULE 350).

Eligible members may apply for disability retirement, as provided for in Section 1-2001(4)(a), Idaho Code, by completing a required form available from any PERSI office. The application process may include an interview by a Board representative. Applicants must release all medical records and information to the Board or its agent. ()

351. INITIAL APPLICATION REVIEW (RULE 351).

Applications will first be reviewed to determine whether the applicant meets applicable eligibility requirements. If eligibility requirements are met, the application will proceed to disability assessment review. If all eligibility requirements are not met, the applicant will be notified in writing. ()

352. DISABILITY ASSESSMENT REVIEW (RULE 352).

An applicant will be assessed to determine whether they qualify for disability retirement under the applicable standard. The assessment may include without limitation, records review, medical and psychological examinations, vocational assessments, or any combination thereof as determined by the Board. Failure to timely comply with any request made by the Board during the assessment process shall result in automatic denial of disability retirement. At the conclusion of the assessment process, the Board will notify the applicant in writing whether or not they qualify for disability retirement. ()

353. RECONSIDERATION OF DISABILITY ASSESSMENT DECISION (RULE 353).

Applicants, who are denied disability retirement as a result of an adverse disability assessment decision, and wish to contest that decision, are required to participate in a reconsideration process. A request for reconsideration must be made within thirty (30) days of the issuance of the disability assessment decision. Any additional information the applicant wishes to be considered must be submitted within thirty (30) days of the request for reconsideration. The additional information will be reviewed and a reconsideration decision will be issued in writing to the applicant. ()

354. ADMINISTRATIVE REVIEW OF THE RECONSIDERATION DECISION (RULE 354).

A reconsideration decision shall be considered a final decision, and may be appealed to the Board for review. In any related administrative hearing, the applicant shall be limited to presenting facts and evidence made available in the reconsideration process. No new or additional evidence may be presented at the hearing. If the applicant has additional facts or evidence that were not made available during the assessment or reconsideration process, the applicant must submit a new application for disability retirement, proceed again through the assessment process, and pay the costs associated with the second or subsequent assessment process. This rule is intended to promote the efficient use of fund resources by encouraging full and complete disclosure of information during the disability assessment process. ()

355. DELEGATION (RULE 355).

The Board may, by contract or otherwise, delegate all or part of these processes to third parties. Where such delegation has been made, the term “Board” includes those third parties. Where such delegation has been made, the term “Board” includes those third parties. ()

356. REASSESSMENT OF DISABILITY RETIREES (RULE 356).

A disability retiree is subject to reassessment of his disability at any time to determine whether he continues to be disabled under the standard in Section 1-2001(4)(a), Idaho Code. However, after two (2) years of continuous disability retirement, a disability retiree is not required to undergo medical examinations more often than every twelve (12) months. A disability retiree notified that he has been selected for reassessment is under the same obligation as applicants to supply information. ()

357. BURDEN ON APPLICANT (RULE 357).

Applicant must demonstrate that, on or before applicant’s last day of employment, they were disabled under the

disability standard. The last day of employment is the last day applicant earned compensation, including annual leave and sick leave. ()

358. STATUTORY STANDARD (RULE 358).

In applying the disability standard in Section 1-2001(4)(a), Idaho Code, the applicant is prevented from further performance of the duties of his office if the applicant is permanently prevented, due to bodily injury or disease, from performing every substantial and material duty of his office. ()

359. ATTORNEY'S FEES AND COSTS (RULE 359).

Attorney's fees and costs incurred by an applicant in their efforts to obtain disability retirement are the sole responsibility of the applicant and shall not be paid by the Board except for fees related to judicial review for which applicant is found to be entitled under applicable law. ()

360. -- 399. (RESERVED)

SUBCHAPTER F – MISCELLANEOUS PROVISIONS
Rules 400 through 999

400. ADMINISTRATIVE PROCEDURE -- CROSS REFERENCE (RULE 400).

See IDAPA 59.01.01, "Rules of Administrative Procedure of PERSI," concerning rules for administrative procedure. ()

401. APPROVED DOMESTIC RETIREMENT ORDERS (RULE 401).

As permitted under Code Section 414(p)(11), the Plan shall recognize and give effect to domestic retirement orders that have been approved in accordance with Plan procedures. An order shall be approved only if it substantially meets the requirements for a qualified domestic relations order under Code Section 414(p), except for Subsection (9) thereof, as determined by the Administrator or its agent. Amounts segregated for the accounts of alternate payees pursuant to a Plan approved domestic retirement order shall be available for immediate distribution to the alternate payee. Distributions pursuant to a domestic retirement order to an alternate payee who is a spouse or former spouse of the Member shall be taxable to the alternate payee rather than the Member to the extent permitted under Code Section 414(p)(12). Distributions pursuant to a qualified domestic relations order to an alternate payee who is not a spouse or former spouse of the Member shall be taxable to the Member. ()

402. RETIREMENT APPLICATION AND SPOUSAL CONSENT (RULE 402).

A member is required to complete and submit a retirement application and select either a regular or optional retirement allowance. The member's signature must be notarized. The application for retirement indicating the election made by the retiring member shall also be signed by the spouse certifying they understand and consent to the election made by the member. The spouse's signature must be notarized. ()

403. FORFEITURES (RULE 403).

Forfeitures will not be applied to increase the benefits any member would otherwise receive. ()

404. PRE-ERISA VESTING (RULE 404).

Upon any termination of the Plan or upon any complete discontinuance of contributions under the Plan, the rights of all Members to benefits accrued to the date of such termination or discontinuance, to the extent then funded, shall become one hundred percent (100%) vested. ()

405. EXCLUSIVE PURPOSE (RULE 405).

The Board shall hold the assets of the Judges' Retirement Fund in trust for the exclusive purpose of providing benefits to Members and Beneficiaries and paying reasonable expenses of administration. It shall be impossible by operation of the Judges' Retirement Fund, by termination, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by other means, for any part of the corpus or income of the Judges' Retirement Fund, or any funds contributed thereto, to inure to the benefit of any Employer or otherwise be used for or diverted to purposes other than providing benefits to Members and Beneficiaries and defraying reasonable expenses of administering the Judges' Retirement Fund. ()

406. BENEFITS DURING MILITARY SERVICES (RULE 406).

01. Death Benefits. ()

a. This Subsection 407.01 applies to a member of the Judges' Retirement Fund who dies on or after January 1, 2007, while performing qualified military service as defined in Chapter 43, Title 38 of the United States Code. ()

b. The period of military service that results in the member's death will be counted in the determination of whether the member qualifies for the death benefit described in Section 2009-1(b) to the extent required by Code Section 401(a)(37), ()

02. Determination of Return to Employment for Benefit Accrual Purposes. ()

a. This Subsection 407.02 applies to a member of the Judges' Retirement Fund who becomes disabled or dies on or after January 1, 2007, while performing qualified military service as defined in Chapter 43, Title 38 of the United States Code. ()

b. For benefit accrual purposes, a member of the Judges' Retirement Fund shall be treated as having returned to employment on the day before the death or disability and then terminated on the date of death or disability to the extent permitted by Code Section 414(u)(8). ()

03. Differential Wage Payments. ()

a. This Subsection 407.02 applies to a member of the Judges' Retirement Fund who, on or after January 1, 2009, receives differential wage payments from his or her Employer while performing qualified military service as defined in Chapter 43, Title 38 of the United States Code. ()

b. A member of the Judges' Retirement Fund shall be treated as employed by the Employer while performing qualified military service to the extent required by Code Section 3401(h). ()

407. -- 999. (RESERVED)

[Agency redlined courtesy copy]

Italicized text indicates changes between the text of the proposed rule as adopted in the pending rule.

59.02.01 – RULES FOR THE JUDGES' RETIREMENT FUND

SUBCHAPTER A – GENERAL PROVISIONS
Rules 001 through 099

000. LEGAL AUTHORITY (RULE 0).

~~The Rules for the Judges' Retirement Fund rules are adopted under the legal authority of~~ Section 1-2012, Idaho Code. (3-31-22)()

001. TITLE AND SCOPE (RULE 1).

01. Title. The title of this chapter is IDAPA 59.02.01, "Rules for the Judges' Retirement Fund." ()

02. Scope. This chapter relates to retirement under the Judges' Retirement Fund. ()

~~002. WRITTEN INTERPRETATIONS—AGENCY GUIDELINES (RULE 2).~~

~~Written interpretations of these rules, to the extent they exist, are available from PERSI (Public Employee Retirement System of Idaho), at the locations listed in Rule 4 of these rules. (3-31-22)~~

~~003. ADMINISTRATIVE APPEAL (RULE 3).~~

~~Administrative appeals are conducted pursuant to IDAPA 59.01.01, "Rules of Administrative Procedure," Rules 101 through 104 and 150 through 789. (3-31-22)()~~

~~004. OFFICE—OFFICE HOURS—MAILING ADDRESS AND STREET ADDRESS (RULE 4).~~

~~Office hours are 8 a.m. to 5 p.m. Monday through Friday. PERSI's mailing and street addresses, telephone numbers, and fax numbers are as follows: (3-31-22)~~

~~005. PUBLIC RECORDS ACT COMPLIANCE (RULE 5).~~

~~All rules required to be adopted by this chapter are public records. (3-31-22)~~

~~006. CITATION (RULE 6).~~

~~The official citation of this chapter is IDAPA 59.02.01.000, et seq. For example, this section's citation is IDAPA 59.02.01.006. In documents submitted to the Board or issued by the Board these rules may be cited as Rules for the Judges' Retirement Fund and section number less leading zeros. For example, this rule may be cited as Rules for the Judges' Retirement Fund Rule 7. (3-31-22)~~

~~007. EFFECTIVE DATE (RULE 7).~~

~~Unless otherwise indicated in the bracketed material following each rule, the effective date of every rule in this chapter is July 1, 2014. (3-31-22)~~

~~008. -- 009. (RESERVED)~~

010. DEFINITIONS (RULE 10).

The following definitions apply to this chapter: ()

01. Accrued Benefit. The actuarial value of the retirement benefit to which the Member is entitled under the Judges' Retirement Fund upon attainment of Normal Retirement Age. ()

02. Active Member. Each justice or judge who participates in the Judges' Retirement Fund as provided by Idaho Code. ()

03. Administrator. The Board. ()

~~**04. Annual Additions.** Annual additions are the total of all after-tax Member contributions in a year (not including rollovers) and forfeitures allocated to a Member's account under the Judges' Retirement Fund and all other qualified plans to which contributions are made based on the Member's service with the Employer. (3-31-22)~~

~~**05. Beneficiary.** The designated person (or, if none, the Member's estate) who is entitled to receive benefits under the Plan after the death of a Member. ()~~

~~**06. Board.** The retirement board established in Section 59-1304, Idaho Code. ()~~

~~**07. Code.** The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to Sections of the Code are to such Sections as they may from time to time be amended or renumbered. ()~~

~~**08. Compensation.** All cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Member's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Member's gross income for the calendar year but for a compensation reduction election under Sections 125, 132(f), 401(k), 403(b), or 457(b) of the Code. ()~~

~~**09. Contingent Annuitant.** The person designated by a Member under certain retirement options to~~

receive payments upon the death of the Member. The person so designated must be born and living on the effective date of retirement. ()

~~109.~~ **Designated Beneficiary.** The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-4, Q&A-4, of the Treasury regulations. ()

~~11.~~ **Differential Wage Payments.** Differential Wage Payments as defined in 26 U.S.C. 3401(h). A differential wage payment generally refers to an employer payment to an employee called to active duty in the uniformed services for more than thirty (30) days that represents all or a portion of the compensation he would have received from the employer if he were performing services for the employer. (3-31-22) ()

~~120.~~ **Employer.** The ~~common-law employer of a Member~~ State of Idaho Judicial Branch. (3-31-22) ()

~~11.~~ **Inactive Member.** A former active member who is not receiving a retirement allowance or has not received a refund of contributions. ()

~~132.~~ **Judges' Retirement Fund.** The Judges' Retirement Fund established under Title 1, Chapter 20, Idaho Code, and rules applicable to the Judges' Retirement Fund. The Judges' Retirement Fund is intended to satisfy Code Section 401(a) as applicable to governmental plans described in Code Section 414(d). It is maintained for the exclusive benefit of Members and their beneficiaries. ()

~~143.~~ **Member.** ~~An individual who is currently accruing benefits or who has previously accrued benefits under the Plan and who has not received a distribution of his entire benefit under the Plan~~ active member, inactive member, or a retired member. (3-31-22) ()

~~15.~~ **Normal Retirement Age.** ~~The age (or combination of age and years of service) at which a Member is entitled to an actuarially unreduced retirement benefit under the Plan. A Member will be fully vested upon attainment of Normal Retirement Age.~~ (3-31-22) ()

~~164.~~ **Plan.** The plan of benefits under the Judges' Retirement Fund. ()

~~175.~~ **Required Beginning Date.** The date specified in Rule 100 of these rules. ()

~~16.~~ **Retired Member.** A former active member receiving retirement compensation. ()

~~17.~~ **Service Credit.** Being shown on Employer's payroll as an Active Member receiving a salary. For each calendar month, service is credited only when the Active Member is employed for fifteen (15) days or more during the calendar month. ()

~~18.~~ **Severance from Employment.** The date that the Member dies, retires, or otherwise has a separation from employment with the Employer, as determined by the Administrator (and taking into account guidance issued under the Code). ()

011. -- 099. (RESERVED)

SUBCHAPTER B – DISTRIBUTIONS
Rules 100 through 250

100. REQUIRED MINIMUM DISTRIBUTIONS (RULE 100).

01. Default Application of Federal Requirements. With respect to distributions under the Judges' Retirement Fund, and except as provided in Subsection 100.06, the Judges' Retirement Fund will apply the minimum distribution requirements of Section 401(a)(9) of the Internal Revenue Code (Code) in accordance with a good faith interpretation of Section 401(a)(9), notwithstanding any provision of the Judges' Retirement Fund to the contrary. ()

02. Required Beginning Date. Except as otherwise provided in Subsections 100.03 through 100.06, distributions under the Judges' Retirement Fund shall begin not later than April 1 following the later of: ()

a. ~~The calendar year (hereinafter referred to as the "Commencement Year") in which the member reaches age seventy and one half (70 ½); and~~ The commencement year, which is defined as the year in which a member reaches the applicable age, as defined in Internal Revenue Code Section 401(a) as now in effect and thereafter amended. (3-31-22)()

b. The year in which ~~he~~ they retires. (3-31-22)()

03. PERSI Selects Retirement Option. ~~Any member required to take minimum distributions, as required in this Section 100 and fails to complete and submit an approved retirement application and select either a regular or optional retirement allowance by April 1 following the later of the commencement year or the year the member separates from employment, the member shall be deemed to have made the following selection.~~ ()

a. ~~If single, a regular retirement allowance and no other selection shall be required or permitted.~~ ()

b. ~~If married, a one hundred percent (100%) spousal option and no other selection shall be required or permitted unless proof is provided that the spouse has no community property interest in the benefit.~~ ()

034. Lifetime Distributions. Distribution shall be made over the life of the Member or the lives of the Member and ~~their contingent annuitant his beneficiary; or over a period certain not extending beyond the life expectancy of the member or the joint life and last survivor expectancy of the member and his beneficiary.~~ (3-31-22)()

045. Timing of Required Distributions. A required distribution shall be deemed to have been made during the Commencement Year if actually made by the following April 1, but such delayed distribution shall not change the amount of such distribution, and the distribution otherwise required during the subsequent calendar year shall be calculated as if the first distribution had been made on the last day of the Commencement Year. ()

~~**05. Adjustment of Required Distributions.** Benefits paid prior to the Commencement Year shall reduce the aggregate amount subject to (but shall not otherwise negate) the minimum distribution requirements described herein.~~ (3-31-22)

~~**06. Annuity Benefits Payable on Death of a Member.** All death benefits payable in the form of an annuity will begin to be paid as soon as administratively practicable after the member's death, but must in any event begin to be paid before the end of the calendar year following the calendar year in which the member died.~~ (3-31-22)

076. Death Benefits. All death benefits payable in a lump sum will be distributed as soon as administratively practicable after request, but must in any event be distributed within fifteen (15) months of the member's death, unless the identity of the beneficiary is not ascertainable. ()

101. MAXIMUM LIMITATIONS ON BENEFITS (RULE 101).

Beginning effective January 1, 2002, the "defined benefit dollar limitation" is one hundred sixty thousand dollars (\$160,000), as adjusted, effective January 1 of each year thereafter, under Section 415(d) of the Internal Revenue Code (Code) in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under Section 415(d) will apply to limitation years ending with or within the calendar year for which the adjustment applies. The "maximum permissible benefit" is the defined benefit dollar limitation (adjusted where required, as provided in Subsection 101.01 and, if applicable, in Subsections 101.02 through 101.04). ()

01. Less Than Ten Years of Service. If the Member has fewer than ten (10) years of participation in the Judges' Retirement Fund, the defined benefit dollar limitation shall be multiplied by a fraction: ()

a. The numerator of which is the number of years (or part thereof) of participation in the Judges' Retirement Fund; and ()

- b. The denominator of which is ten (10). ()

02. Benefit Begins Prior to Age Sixty-Two. If the benefit of a Member begins prior to age sixty-two (62), the defined benefit dollar limitation applicable to the Member at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the Member at age sixty-two (62) (adjusted under Rule 101.01, if required). The defined benefit dollar limitation applicable at an age prior to age sixty-two (62) is determined as set forth in IRS regulation under Section 415(b)(2) of the Code. ()

03. Benefit Begins at Age Sixty-Five. If the benefit of a Member begins after the Member attains age sixty-five (65), the defined benefit dollar limitation applicable to the Member at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the Member at age sixty-five (65) (adjusted under Rule 101.01, if required.) The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age sixty-five (65) is determined as set forth in IRS regulation under Section 415(b)(2) of the Code. ()

04. Transition. Benefit increases resulting from the increase in the limitations of Section 415(b) of the Code shall be provided to all current and former Members (with benefits limited by Section 415(b)) who have an accrued benefit under the Judges' Retirement Fund immediately prior to the effective date of this Rule (other than an accrued benefit resulting from a benefit increase solely as a result of the increases in limitations under Section 415(b).) ()

05. Aggregation. If any member participates in two (2) or more qualified defined benefit plans maintained by the employer (or a predecessor employer), the combined benefits from all such plans may not exceed the "maximum permissible benefit" described in this Rule 101. ()

~~102. MAXIMUM LIMITATION ON ANNUAL ADDITIONS (RULE 102).~~

~~01. Annual Additions Limitation.~~ Effective January 1, 2002, annual additions shall not exceed the lesser of: (3-31-22)

~~a. Forty thousand dollars (\$40,000); or (3-31-22)~~

~~b. One hundred percent (100%) of the Member's compensation. (3-31-22)~~

~~02. Annual Adjustments.~~ As of January 1 of each calendar year on and after January 1, 2002, the dollar limitation in Subsection 102.01 of these rules, with respect to both active and retired members, shall be adjusted for increases in the cost of living, taking into consideration applicable guidelines. (3-31-22)

~~03. Other Qualified Plans.~~ To the extent that any Member of the Judges Retirement Plan is also a member of any other qualified plan, and annual additions to all plans covering the Member would otherwise exceed the limits set forth above, annual additions to such other qualified plan shall be reduced to the extent necessary to avoid exceeding the limitations on annual additions. (3-31-22)

~~103.2. ROLLOVER DISTRIBUTIONS (RULE 1032).~~

01. Direct Rollovers. A Member of the Judges' Retirement Fund or a beneficiary of a Member (including a Member's former spouse who is the alternate payee under an approved domestic relations order) who is entitled to an eligible rollover distribution may elect, at the time and in the manner prescribed by the Administrator, to have all or any portion of the distribution paid directly to an eligible retirement plan specified by the Member in a direct rollover. ~~Effective January 1, 2006, in the event of a mandatory distribution greater than one thousand dollars (\$1,000), if the Member does not elect to have such distribution paid directly to an eligible retirement plan specified by the Member in a direct rollover or to receive the distribution directly, then the plan administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the plan administrator. (3-31-22)()~~

02. Eligible Rollover Distribution Defined. For purposes of this Rule, an eligible rollover distribution

means any distribution of all or any portion of a Member's account balance, except that an eligible rollover distribution does not include (a) any installment payment for a period of ten (10) years or more, (b) any distribution made as a result of an unforeseeable emergency, or (c) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under Code Section 401(a)(9). In addition, an eligible retirement plan means an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, a qualified trust described in Section 401(a) of the Code, an annuity plan described in Section 403(a) or 403(b) of the Code, or an eligible governmental plan described in Section 457(b) of the Code, that accepts the eligible rollover distribution. Effective January 1, 2008, an eligible retirement plan shall also mean a Roth IRA described in Section 408A of the Code. ()

~~03. After Tax Contributions.~~ For purposes of the direct rollover provisions in Rule 103.01, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to separately account for the amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. (3-31-22)

~~04.3~~ **Alternate Payees.** A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse, who is the alternate payee under a domestic retirement order, approved as provided in Rule 402 are distributees with regard to the interest of the spouse or former spouse. ()

~~05.4.~~ **Transfers to Non-Spouse Beneficiaries.** This Rule 103.05 applies to distributions made on or after July 1, 2008. Notwithstanding any provision of the Judges' Retirement Fund to the contrary that would otherwise limit the options of the Beneficiary of a deceased Member who is not the Member's spouse, the administrator shall, upon the request of such a Beneficiary transfer a lump sum distribution to the trustee of an individual retirement account established under Section 408 of the Code in accordance with the provisions of Code Section 402(e)(11). ()

~~104.3.~~ -- 250. (RESERVED)

SUBCHAPTER C – ASSUMPTIONS
Rules 251 through 299

251. ACTUARIAL ASSUMPTIONS TO BE SPECIFIED (RULE 251).
Whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, such assumptions will be specified in a manner that precludes employer discretion. ()

~~252. ACTUARIAL TABLES (RULE 252).~~
The actuarial tables used for determining optional retirement benefits are set forth in Appendix A, which is hereby incorporated by reference and made a part hereof. (3-31-22)

~~253.2.~~ -- 299. (RESERVED)

SUBCHAPTER D – CONTRIBUTION RATES
Rules 300 through 349

~~300. EMPLOYER CONTRIBUTION RATE (RULE 300).~~
The employer contribution rate shall be fifty five point twenty eight percent (55.28%) of salaries until next determined by the Board. Beginning July 1, 2017, the employer contribution rate shall be sixty two point fifty three percent (62.53%) of salaries until next determined by the Board. (3-31-22)

~~301. EMPLOYEE CONTRIBUTION RATE (RULE 301).~~
The employee contribution rate shall be ten point twenty three percent (10.23%) of salary until next determined by the Board. Beginning July 1, 2017, the employee contribution rate shall be eleven point fifty seven percent (11.57%) of salaries until next determined by the Board. (3-31-22)

3020. VACATION AND CONTRACTUAL PAYMENTS SUBJECT TO CONTRIBUTIONS (RULE 3020).
Compensation paid for vacation is salary subject to employee and employer contributions. ()

3031. REPORTS (RULE 3031).
The Employer shall provide to the Board such reports, including compensation and contribution reports, as are required by the Board to verify contributions benefits required or provided and unless extended in writing by the executive director such reports shall be provided no later than five (5) business days after each pay date. ()

3042. -- 349. (RESERVED)

SUBCHAPTER E – DISABILITY RETIREMENT
Rules 350 through 399

350. APPLYING FOR DISABILITY RETIREMENT (RULE 350).
Eligible members may apply for disability retirement, as provided for in Section 1-2001(4)(a), Idaho Code, by completing a required form available from any PERSI office. The application process may include an interview by a Board representative. Applicants must release all medical records and information to the Board or its agent. ()

351. INITIAL APPLICATION REVIEW (RULE 351).
Applications will first be reviewed to determine whether the applicant meets applicable eligibility requirements. If eligibility requirements are met, the application will proceed to disability assessment review. If all eligibility requirements are not met, the applicant will be notified in writing. ()

352. DISABILITY ASSESSMENT REVIEW (RULE 352).
An applicant will be assessed to determine whether ~~he qualifies~~ they qualify for disability retirement under the applicable standard. The assessment may include without limitation, records review, medical and psychological examinations, vocational assessments, or any combination thereof as determined by the Board. Failure to timely comply with any request made by the Board during the assessment process shall result in automatic denial of disability retirement. At the conclusion of the assessment process, the Board will notify the applicant in writing whether or not ~~he qualifies~~ they qualify for disability retirement. (3-31-22)()

353. RECONSIDERATION OF DISABILITY ASSESSMENT DECISION (RULE 353).
Applicants, who are denied disability retirement as a result of an adverse disability assessment decision, and wish to contest that decision, are required to participate in a reconsideration process. A request for reconsideration must be made within thirty (30) days of the issuance of the disability assessment decision. Any additional information the applicant wishes to be considered must be submitted within thirty (30) days of the request for reconsideration. The additional information will be reviewed and a reconsideration decision will be issued in writing to the applicant. ()

354. ADMINISTRATIVE REVIEW OF THE RECONSIDERATION DECISION (RULE 354).
A reconsideration decision shall be considered a final decision, and may be appealed to the Board for review. In any related administrative hearing, the applicant shall be limited to presenting facts and evidence made available in the reconsideration process. No new or additional evidence may be presented at the hearing. If the applicant has additional facts or evidence that were not made available during the assessment or reconsideration process, the applicant must submit a new application for disability retirement, proceed again through the assessment process, and pay the costs associated with the second or subsequent assessment process. This rule is intended to promote the efficient use of fund resources by encouraging full and complete disclosure of information during the disability assessment process. ()

355. DELEGATION (RULE 355).
The Board may, by contract or otherwise, delegate all or part of these processes to third parties. Where such delegation has been made, the term “Board” includes those third parties. Where such delegation has been made, the term “Board” includes those third parties. ()

356. REASSESSMENT OF DISABILITY RETIREES (RULE 356).
A disability retiree is subject to reassessment of his disability at any time to determine whether he continues to be

disabled under the standard in Section 1-2001(4)(a), Idaho Code. However, after two (2) years of continuous disability retirement, a disability retiree is not required to undergo medical examinations more often than every twelve (12) months. A disability retiree notified that he has been selected for reassessment is under the same obligation as applicants to supply information. ()

357. BURDEN ON APPLICANT (RULE 357).

Applicant must demonstrate that, on or before applicant's last day of employment, ~~he was~~ **they were** disabled under the disability standard. The last day of employment is the last day applicant earned compensation, including annual leave and sick leave. (3-31-22)()

358. STATUTORY STANDARD (RULE 358).

In applying the disability standard in Section 1-2001(4)(a), Idaho Code, the applicant is prevented from further performance of the duties of his office if the applicant is permanently prevented, due to bodily injury or disease, from performing every substantial and material duty of his office. ()

359. ATTORNEY'S FEES AND COSTS (RULE 359).

Attorney's fees and costs incurred by an applicant in ~~his~~ **their** efforts to obtain disability retirement are the sole responsibility of the applicant and shall not be paid by the Board except for fees related to judicial review for which applicant is found to be entitled under applicable law. (3-31-22)()

360. -- 399. (RESERVED)

SUBCHAPTER F – MISCELLANEOUS PROVISIONS
Rules 400 through 999

400. ADMINISTRATIVE PROCEDURE -- CROSS REFERENCE (RULE 400).

See IDAPA 59.01.01, "Rules of Administrative Procedure of PERSI," concerning rules for administrative procedure. ()

~~**401. POST RETIREMENT ALLOWANCE ADJUSTMENTS (RULE 401).**~~

~~**01. Adjustments Under Section 59-1355, Idaho Code.** For those retirees whose post retirement allowance adjustment is to be determined in accordance with Section 59-1355, Idaho Code, the Board shall annually consider the post retirement cost of living adjustment (COLA) pursuant to Section 59-1355, Idaho Code. The Board has the discretion afforded under Section 59-1355, Idaho Code, related to a discretionary and/or retro active COLA. The Board shall annually consider the COLA no later than the December Board meeting of each year with an effective date of July 1 of the next year. (3-31-22)~~

~~**02. Adjustments Under Section 1-2001(2)(a)(ii).** For those retirees whose COLA is to be determined in accordance with Section 1-2001(2)(a)(ii), Idaho Code, the COLA, if any, shall have an effective date of July 1 of the applicable year. (3-31-22)~~

~~**4021. APPROVED DOMESTIC RETIREMENT ORDERS (RULE 4021).**~~

~~As permitted under Code Section 414(p)(11), the Plan shall recognize and give effect to domestic retirement orders that have been approved in accordance with Plan procedures. An order shall be approved only if it substantially meets the requirements for a qualified domestic relations order under Code Section 414(p), except for Subsection (9) thereof, as determined by the Administrator or its agent. Amounts segregated for the accounts of alternate payees pursuant to a Plan approved domestic retirement order shall be available for immediate distribution to the alternate payee. Distributions pursuant to a domestic retirement order to an alternate payee who is a spouse or former spouse of the Member shall be taxable to the alternate payee rather than the Member to the extent permitted under Code Section 414(p)(12). Distributions pursuant to a qualified domestic relations order to an alternate payee who is not a spouse or former spouse of the Member shall be taxable to the Member. ()~~

~~**4032. RETIREMENT APPLICATION AND SPOUSAL CONSENT (RULE 4032).**~~

~~A member is required to complete and submit a retirement application and select either a regular or optional retirement allowance. The member's signature must be notarized. The application for retirement indicating the election made by the retiring member shall also be signed by the spouse certifying ~~they~~ **they** understand and consent to~~

the election made by the member. The spouse's signature must be notarized. ~~If an inactive member reaches service retirement age, or an active member who has reached service retirement age separates from service, and has failed to complete and submit an approved retirement application and select either a regular or optional retirement allowance within ninety (90) days thereafter, the member shall be deemed to have selected a regular retirement allowance and no other selection shall be required or permitted.~~ (3-31-22) ()

4043. FORFEITURES (RULE 4043).

Forfeitures will not be applied to increase the benefits any member would otherwise receive. ()

4054. PRE-ERISA VESTING (RULE 4054).

Upon any termination of the Plan or upon any complete discontinuance of contributions under the Plan, the rights of all Members to benefits accrued to the date of such termination or discontinuance, to the extent then funded, shall become one hundred percent (100%) vested. ()

4065. EXCLUSIVE PURPOSE (RULE 4065).

The Board shall hold the assets of the Judges' Retirement Fund in trust for the exclusive purpose of providing benefits to Members and Beneficiaries and paying reasonable expenses of administration. It shall be impossible by operation of the Judges' Retirement Fund, by termination, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by other means, for any part of the corpus or income of the Judges' Retirement Fund, or any funds contributed thereto, to inure to the benefit of any Employer or otherwise be used for or diverted to purposes other than providing benefits to Members and Beneficiaries and defraying reasonable expenses of administering the Judges' Retirement Fund. ()

4076. BENEFITS DURING MILITARY SERVICES (RULE 4076).

01. Death Benefits. ()

a. This Subsection 407.01 applies to a member of the Judges' Retirement Fund who dies on or after January 1, 2007, while performing qualified military service as defined in Chapter 43, Title 38 of the United States Code. ()

b. The period of military service that results in the member's death will be counted in the determination of whether the member qualifies for the death benefit described in Section 2009-1(b) to the extent required by Code Section 401(a)(37), ()

02. Determination of Return to Employment for Benefit Accrual Purposes. ()

a. This Subsection 407.02 applies to a member of the Judges' Retirement Fund who becomes disabled or dies on or after January 1, 2007, while performing qualified military service as defined in Chapter 43, Title 38 of the United States Code. ()

b. For benefit accrual purposes, a member of the Judges' Retirement Fund shall be treated as having returned to employment on the day before the death or disability and then terminated on the date of death or disability to the extent permitted by Code Section 414(u)(8). ()

03. Differential Wage Payments. ()

a. This Subsection 407.02 applies to a member of the Judges' Retirement Fund who, on or after January 1, 2009, receives differential wage payments from his or her Employer while performing qualified military service as defined in Chapter 43, Title 38 of the United States Code. ()

b. A member of the Judges' Retirement Fund shall be treated as employed by the Employer while performing qualified military service to the extent required by Code Section 3401(h). ()

4087. -- 999. (RESERVED)

PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO
Rules for the Judges' Retirement Fund

Docket No. 59-0201-2301
PENDING RULE

APPENDIX A

Judges' Retirement Fund of the State of Idaho
 100% Contingent Annuitant Factors for Spouses
 Judges hired before July 1, 2012

Judge	Spouse																	
	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57
50	0.92242	0.92474	0.92710	0.92949	0.93192	0.93437	0.93685	0.93933	0.94182	0.94431	0.94678	0.94923	0.95166	0.95406	0.95641	0.95872	0.96097	0.96316
51	0.91758	0.91995	0.92236	0.92482	0.92732	0.92985	0.93241	0.93500	0.93759	0.94019	0.94278	0.94536	0.94792	0.95045	0.95296	0.95541	0.95782	0.96016
52	0.91243	0.91484	0.91731	0.91983	0.92240	0.92500	0.92765	0.93032	0.93302	0.93572	0.93843	0.94113	0.94382	0.94650	0.94915	0.95176	0.95432	0.95683
53	0.90695	0.90940	0.91192	0.91449	0.91712	0.91979	0.92251	0.92527	0.92806	0.93087	0.93369	0.93651	0.93934	0.94215	0.94494	0.94771	0.95043	0.95310
54	0.90114	0.90362	0.90618	0.90880	0.91148	0.91422	0.91701	0.91985	0.92273	0.92563	0.92856	0.93150	0.93445	0.93739	0.94033	0.94325	0.94613	0.94897
55	0.89498	0.89750	0.90009	0.90275	0.90548	0.90827	0.91112	0.91404	0.91699	0.91999	0.92301	0.92606	0.92913	0.93221	0.93529	0.93836	0.94140	0.94440
56	0.88851	0.89105	0.89366	0.89636	0.89913	0.90197	0.90488	0.90785	0.91088	0.91396	0.91708	0.92023	0.92341	0.92662	0.92983	0.93304	0.93624	0.93941
57	0.88174	0.88429	0.88693	0.88965	0.89245	0.89533	0.89829	0.90132	0.90441	0.90756	0.91077	0.91401	0.91730	0.92062	0.92396	0.92731	0.93066	0.93400
58	0.87468	0.87725	0.87990	0.88264	0.88546	0.88837	0.89137	0.89445	0.89760	0.90081	0.90409	0.90741	0.91080	0.91423	0.91769	0.92118	0.92467	0.92816
59	0.86737	0.86994	0.87260	0.87535	0.87819	0.88112	0.88415	0.88727	0.89046	0.89373	0.89707	0.90047	0.90394	0.90747	0.91104	0.91465	0.91828	0.92192
60	0.85979	0.86236	0.86501	0.86777	0.87062	0.87357	0.87662	0.87976	0.88300	0.88631	0.88970	0.89317	0.89671	0.90033	0.90400	0.90772	0.91147	0.91525
61	0.85196	0.85451	0.85717	0.85992	0.86277	0.86573	0.86879	0.87196	0.87521	0.87856	0.88200	0.88552	0.88912	0.89281	0.89657	0.90039	0.90426	0.90816
62	0.84393	0.84647	0.84911	0.85185	0.85470	0.85766	0.86072	0.86390	0.86717	0.87055	0.87401	0.87757	0.88123	0.88498	0.88881	0.89272	0.89669	0.90071
63	0.83567	0.83819	0.84081	0.84354	0.84637	0.84932	0.85238	0.85556	0.85884	0.86223	0.86572	0.86930	0.87300	0.87680	0.88069	0.88467	0.88873	0.89285
64	0.82725	0.82974	0.83233	0.83504	0.83786	0.84079	0.84384	0.84700	0.85028	0.85368	0.85718	0.86078	0.86450	0.86834	0.87228	0.87632	0.88045	0.88465
65	0.81863	0.82108	0.82365	0.82632	0.82912	0.83202	0.83505	0.83820	0.84147	0.84486	0.84836	0.85197	0.85570	0.85956	0.86354	0.86762	0.87181	0.87608
66	0.80982	0.81224	0.81477	0.81741	0.82016	0.82304	0.82604	0.82917	0.83242	0.83578	0.83927	0.84288	0.84662	0.85049	0.85448	0.85859	0.86282	0.86715
67	0.80090	0.80328	0.80576	0.80837	0.81108	0.81392	0.81689	0.81998	0.82320	0.82654	0.83001	0.83360	0.83733	0.84120	0.84520	0.84932	0.85358	0.85794
68	0.79182	0.79415	0.79659	0.79915	0.80182	0.80462	0.80754	0.81059	0.81377	0.81708	0.82051	0.82407	0.82778	0.83164	0.83563	0.83976	0.84402	0.84841
69	0.78251	0.78479	0.78718	0.78968	0.79230	0.79504	0.79792	0.80092	0.80405	0.80732	0.81071	0.81423	0.81791	0.82173	0.82570	0.82981	0.83407	0.83846
70	0.77303	0.77526	0.77759	0.78003	0.78260	0.78528	0.78810	0.79105	0.79412	0.79733	0.80067	0.80414	0.80777	0.81156	0.81549	0.81957	0.82381	0.82818

Judge	Spouse																	
	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75
50	0.96529	0.96735	0.96933	0.97125	0.97308	0.97484	0.97653	0.97814	0.97967	0.98112	0.98251	0.98382	0.98506	0.98623	0.98733	0.98837	0.98934	0.99026
51	0.96245	0.96466	0.96681	0.96887	0.97086	0.97277	0.97460	0.97635	0.97802	0.97960	0.98111	0.98254	0.98389	0.98517	0.98637	0.98750	0.98856	0.98956
52	0.95927	0.96165	0.96396	0.96619	0.96835	0.97042	0.97240	0.97431	0.97612	0.97785	0.97950	0.98106	0.98254	0.98393	0.98525	0.98648	0.98764	0.98873
53	0.95571	0.95827	0.96075	0.96316	0.96548	0.96773	0.96988	0.97195	0.97393	0.97582	0.97762	0.97933	0.98095	0.98247	0.98392	0.98527	0.98655	0.98774
54	0.95176	0.95449	0.95715	0.95974	0.96225	0.96468	0.96702	0.96927	0.97143	0.97349	0.97545	0.97732	0.97910	0.98077	0.98236	0.98385	0.98525	0.98656
55	0.94737	0.95028	0.95313	0.95591	0.95861	0.96123	0.96377	0.96621	0.96856	0.97081	0.97296	0.97501	0.97695	0.97880	0.98054	0.98218	0.98373	0.98517
56	0.94255	0.94564	0.94868	0.95166	0.95456	0.95738	0.96012	0.96277	0.96532	0.96778	0.97012	0.97237	0.97450	0.97653	0.97845	0.98026	0.98196	0.98356
57	0.93730	0.94058	0.94381	0.94698	0.95009	0.95313	0.95608	0.95894	0.96171	0.96438	0.96694	0.96939	0.97173	0.97395	0.97607	0.97806	0.97994	0.98171
58	0.93164	0.93509	0.93851	0.94188	0.94520	0.94845	0.95162	0.95471	0.95770	0.96059	0.96338	0.96606	0.96862	0.97106	0.97338	0.97558	0.97766	0.97961
59	0.92556	0.92918	0.93279	0.93636	0.93988	0.94335	0.94674	0.95006	0.95329	0.95642	0.95945	0.96236	0.96516	0.96783	0.97038	0.97280	0.97509	0.97725
60	0.91904	0.92283	0.92662	0.93038	0.93411	0.93779	0.94141	0.94497	0.94844	0.95181	0.95509	0.95825	0.96130	0.96422	0.96701	0.96967	0.97219	0.97458
61	0.91209	0.91605	0.92000	0.92395	0.92788	0.93177	0.93562	0.93941	0.94312	0.94675	0.95029	0.95371	0.95702	0.96021	0.96326	0.96618	0.96895	0.97158
62	0.90477	0.90887	0.91298	0.91711	0.92123	0.92533	0.92940	0.93342	0.93738	0.94127	0.94506	0.94876	0.95235	0.95581	0.95914	0.96232	0.96537	0.96826
63	0.89703	0.90125	0.90552	0.90981	0.91411	0.91841	0.92269	0.92695	0.93115	0.93529	0.93936	0.94333	0.94720	0.95095	0.95457	0.95805	0.96138	0.96455
64	0.88893	0.89328	0.89768	0.90212	0.90659	0.91107	0.91556	0.92004	0.92448	0.92887	0.93321	0.93746	0.94162	0.94566	0.94959	0.95337	0.95700	0.96048
65	0.88045	0.88489	0.88941	0.89399	0.89861	0.90327	0.90795	0.91263	0.91731	0.92195	0.92655	0.93108	0.93553	0.93988	0.94411	0.94821	0.95216	0.95596
66	0.87158	0.87611	0.88073	0.88542	0.89018	0.89499	0.89985	0.90473	0.90962	0.91450	0.91936	0.92417	0.92891	0.93356	0.93812	0.94254	0.94683	0.95096
67	0.86242	0.86702	0.87172	0.87651	0.88139	0.88634	0.89135	0.89641	0.90151	0.90661	0.91171	0.91679	0.92182	0.92677	0.93165	0.93640	0.94104	0.94551
68	0.85292	0.85756	0.86232	0.86719	0.87217	0.87723	0.88239	0.88761	0.89289	0.89820	0.90353	0.90887	0.91417	0.91943	0.92462	0.92971	0.93469	0.93952
69	0.84298	0.84765	0.85245	0.85738	0.86243	0.86759	0.87286	0.87822	0.88366	0.88916	0.89471	0.90028	0.90585	0.91139	0.91690	0.92232	0.92765	0.93285
70	0.83270	0.83738	0.84220	0.84716	0.85226	0.85749	0.86285	0.86833	0.87390	0.87957	0.88530	0.89109	0.89691	0.90272	0.90853	0.91427	0.91996	0.92553

APPENDIX A

Judges' Retirement Fund of the State of Idaho
 50% Contingent Annuitant Factors for Spouses
 Judges hired on or after July 1, 2012

Judge	Spouse																		
	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	
50	0.96636	0.96745	0.96855	0.96966	0.97078	0.97190	0.97304	0.97417	0.97529	0.97641	0.97752	0.97861	0.97968	0.98074	0.98177	0.98278	0.98375	0.98470	
51	0.96407	0.96519	0.96633	0.96748	0.96865	0.96982	0.97101	0.97219	0.97338	0.97455	0.97572	0.97688	0.97802	0.97915	0.98025	0.98133	0.98238	0.98340	
52	0.96161	0.96277	0.96394	0.96514	0.96635	0.96757	0.96880	0.97004	0.97128	0.97252	0.97376	0.97498	0.97619	0.97739	0.97857	0.97973	0.98085	0.98195	
53	0.95896	0.96015	0.96136	0.96260	0.96385	0.96512	0.96640	0.96770	0.96899	0.97030	0.97159	0.97288	0.97417	0.97544	0.97669	0.97793	0.97914	0.98032	
54	0.95612	0.95734	0.95859	0.95986	0.96115	0.96247	0.96380	0.96515	0.96650	0.96786	0.96922	0.97058	0.97194	0.97329	0.97462	0.97593	0.97723	0.97849	
55	0.95306	0.95432	0.95560	0.95691	0.95824	0.95960	0.96098	0.96238	0.96379	0.96521	0.96664	0.96806	0.96949	0.97091	0.97233	0.97372	0.97510	0.97645	
56	0.94981	0.95109	0.95240	0.95375	0.95512	0.95652	0.95795	0.95940	0.96087	0.96234	0.96383	0.96532	0.96682	0.96832	0.96981	0.97129	0.97276	0.97420	
57	0.94635	0.94766	0.94901	0.95038	0.95180	0.95324	0.95471	0.95621	0.95772	0.95926	0.96081	0.96237	0.96394	0.96551	0.96708	0.96865	0.97020	0.97173	
58	0.94269	0.94403	0.94540	0.94681	0.94826	0.94974	0.95125	0.95280	0.95437	0.95596	0.95757	0.95919	0.96083	0.96247	0.96412	0.96577	0.96741	0.96904	
59	0.93884	0.94020	0.94160	0.94304	0.94452	0.94603	0.94759	0.94918	0.95080	0.95244	0.95411	0.95579	0.95749	0.95921	0.96094	0.96267	0.96440	0.96612	
60	0.93477	0.93615	0.93758	0.93905	0.94056	0.94211	0.94370	0.94533	0.94700	0.94869	0.95041	0.95216	0.95393	0.95572	0.95752	0.95933	0.96115	0.96296	
61	0.93049	0.93190	0.93335	0.93484	0.93638	0.93796	0.93959	0.94126	0.94297	0.94471	0.94649	0.94829	0.95012	0.95198	0.95386	0.95575	0.95765	0.95955	
62	0.92603	0.92745	0.92892	0.93043	0.93200	0.93361	0.93527	0.93698	0.93873	0.94052	0.94234	0.94420	0.94609	0.94801	0.94996	0.95193	0.95391	0.95590	
63	0.92134	0.92278	0.92427	0.92581	0.92739	0.92903	0.93073	0.93247	0.93425	0.93608	0.93795	0.93986	0.94181	0.94380	0.94581	0.94786	0.94992	0.95200	
64	0.91647	0.91792	0.91942	0.92098	0.92259	0.92426	0.92597	0.92775	0.92957	0.93144	0.93335	0.93530	0.93731	0.93935	0.94143	0.94355	0.94569	0.94785	
65	0.91138	0.91284	0.91436	0.91593	0.91756	0.91924	0.92099	0.92279	0.92464	0.92655	0.92850	0.93050	0.93255	0.93465	0.93679	0.93897	0.94118	0.94342	
66	0.90606	0.90753	0.90906	0.91065	0.91229	0.91400	0.91576	0.91759	0.91947	0.92141	0.92340	0.92543	0.92753	0.92968	0.93188	0.93412	0.93640	0.93872	
67	0.90056	0.90204	0.90358	0.90517	0.90683	0.90855	0.91034	0.91218	0.91409	0.91606	0.91808	0.92015	0.92229	0.92449	0.92674	0.92904	0.93138	0.93377	
68	0.89484	0.89632	0.89786	0.89947	0.90114	0.90287	0.90467	0.90653	0.90846	0.91045	0.91250	0.91461	0.91678	0.91902	0.92132	0.92367	0.92608	0.92853	
69	0.88882	0.89031	0.89185	0.89346	0.89514	0.89688	0.89869	0.90057	0.90252	0.90453	0.90660	0.90874	0.91095	0.91322	0.91556	0.91796	0.92042	0.92293	
70	0.88256	0.88404	0.88559	0.88720	0.88888	0.89063	0.89245	0.89434	0.89630	0.89833	0.90042	0.90258	0.90481	0.90712	0.90950	0.91194	0.91445	0.91701	

Judge	Spouse																		
	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	
50	0.98562	0.98650	0.98735	0.98816	0.98894	0.98968	0.99039	0.99106	0.99170	0.99230	0.99288	0.99342	0.99393	0.99441	0.99487	0.99529	0.99569	0.99606	
51	0.98439	0.98535	0.98627	0.98715	0.98799	0.98880	0.98958	0.99031	0.99101	0.99167	0.99230	0.99289	0.99345	0.99398	0.99447	0.99494	0.99537	0.99578	
52	0.98302	0.98405	0.98505	0.98600	0.98692	0.98781	0.98865	0.98945	0.99022	0.99094	0.99163	0.99228	0.99289	0.99347	0.99401	0.99452	0.99500	0.99544	
53	0.98146	0.98258	0.98366	0.98470	0.98570	0.98666	0.98758	0.98846	0.98929	0.99009	0.99084	0.99156	0.99223	0.99286	0.99346	0.99402	0.99455	0.99503	
54	0.97972	0.98093	0.98209	0.98322	0.98431	0.98535	0.98636	0.98732	0.98823	0.98911	0.98993	0.99072	0.99146	0.99216	0.99282	0.99343	0.99401	0.99455	
55	0.97778	0.97907	0.98033	0.98155	0.98273	0.98387	0.98496	0.98601	0.98702	0.98797	0.98888	0.98975	0.99056	0.99133	0.99206	0.99274	0.99338	0.99398	
56	0.97562	0.97701	0.97836	0.97968	0.98096	0.98220	0.98339	0.98453	0.98563	0.98668	0.98768	0.98863	0.98953	0.99039	0.99119	0.99194	0.99265	0.99331	
57	0.97324	0.97473	0.97619	0.97761	0.97899	0.98033	0.98162	0.98287	0.98407	0.98522	0.98632	0.98737	0.98836	0.98930	0.99019	0.99103	0.99181	0.99255	
58	0.97065	0.97223	0.97379	0.97532	0.97681	0.97826	0.97966	0.98102	0.98233	0.98359	0.98480	0.98595	0.98704	0.98808	0.98906	0.98999	0.99086	0.99167	
59	0.96783	0.96951	0.97118	0.97281	0.97441	0.97598	0.97750	0.97897	0.98040	0.98177	0.98309	0.98436	0.98556	0.98670	0.98779	0.98881	0.98978	0.99069	
60	0.96476	0.96655	0.96832	0.97007	0.97179	0.97347	0.97511	0.97670	0.97825	0.97975	0.98119	0.98257	0.98390	0.98516	0.98636	0.98749	0.98856	0.98957	
61	0.96145	0.96334	0.96522	0.96708	0.96891	0.97071	0.97248	0.97420	0.97588	0.97750	0.97907	0.98059	0.98204	0.98342	0.98474	0.98600	0.98718	0.98830	
62	0.95790	0.95989	0.96188	0.96385	0.96580	0.96772	0.96961	0.97147	0.97328	0.97504	0.97675	0.97840	0.97998	0.98150	0.98296	0.98434	0.98565	0.98689	
63	0.95408	0.95617	0.95826	0.96035	0.96242	0.96447	0.96649	0.96848	0.97042	0.97233	0.97418	0.97597	0.97770	0.97937	0.98096	0.98248	0.98393	0.98530	
64	0.95002	0.95221	0.95441	0.95660	0.95879	0.96096	0.96311	0.96523	0.96732	0.96937	0.97137	0.97332	0.97520	0.97702	0.97876	0.98043	0.98203	0.98354	
65	0.94569	0.94797	0.95026	0.95257	0.95487	0.95716	0.95945	0.96171	0.96394	0.96614	0.96829	0.97039	0.97243	0.97441	0.97632	0.97815	0.97990	0.98157	
66	0.94106	0.94344	0.94583	0.94824	0.95065	0.95307	0.95548	0.95788	0.96026	0.96260	0.96491	0.96718	0.96939	0.97153	0.97361	0.97561	0.97754	0.97937	
67	0.93619	0.93865	0.94113	0.94364	0.94617	0.94870	0.95124	0.95378	0.95630	0.95880	0.96127	0.96370	0.96608	0.96840	0.97065	0.97283	0.97494	0.97695	
68	0.93102	0.93356	0.93614	0.93874	0.94137	0.94402	0.94668	0.94935	0.95202	0.95467	0.95729	0.95989	0.96245	0.96495	0.96739	0.96976	0.97205	0.97425	
69	0.92550	0.92811	0.93077	0.93346	0.93619	0.93895	0.94174	0.94453	0.94734	0.95014	0.95293	0.95569	0.95842	0.96111	0.96375	0.96631	0.96880	0.97121	
70	0.91964	0.92232	0.92505	0.92783	0.93066	0.93352	0.93642	0.93934	0.94228	0.94523	0.94818	0.95111	0.95402	0.95690	0.95973	0.96249	0.96520	0.96781	

APPENDIX A

Judges' Retirement Fund of the State of Idaho
 100% Contingent Annuitant Factors for Spouses
 Judges hired on or after July 1, 2012

Judge	Spouse																		
	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	
50	0.89139	0.89464	0.89794	0.90129	0.90469	0.90812	0.91158	0.91507	0.91855	0.92203	0.92549	0.92892	0.93232	0.93568	0.93898	0.94221	0.94536	0.94843	
51	0.88461	0.88792	0.89131	0.89475	0.89825	0.90179	0.90538	0.90900	0.91263	0.91627	0.91989	0.92350	0.92709	0.93064	0.93414	0.93758	0.94095	0.94423	
52	0.87740	0.88078	0.88424	0.88776	0.89135	0.89501	0.89871	0.90245	0.90623	0.91001	0.91380	0.91758	0.92135	0.92510	0.92881	0.93246	0.93605	0.93956	
53	0.86973	0.87316	0.87668	0.88028	0.88396	0.88771	0.89152	0.89538	0.89929	0.90322	0.90717	0.91112	0.91507	0.91901	0.92292	0.92679	0.93060	0.93434	
54	0.86159	0.86507	0.86865	0.87232	0.87607	0.87991	0.88382	0.88779	0.89182	0.89589	0.89998	0.90409	0.90822	0.91235	0.91647	0.92055	0.92458	0.92856	
55	0.85297	0.85650	0.86012	0.86385	0.86767	0.87158	0.87557	0.87965	0.88379	0.88798	0.89222	0.89648	0.90078	0.90510	0.90941	0.91370	0.91796	0.92216	
56	0.84391	0.84747	0.85113	0.85490	0.85878	0.86275	0.86683	0.87099	0.87524	0.87955	0.88391	0.88832	0.89277	0.89726	0.90176	0.90626	0.91074	0.91518	
57	0.83443	0.83801	0.84170	0.84551	0.84943	0.85346	0.85760	0.86185	0.86618	0.87059	0.87507	0.87961	0.88421	0.88886	0.89354	0.89824	0.90293	0.90759	
58	0.82456	0.82815	0.83186	0.83569	0.83965	0.84372	0.84792	0.85223	0.85664	0.86114	0.86572	0.87038	0.87512	0.87992	0.88477	0.88965	0.89454	0.89942	
59	0.81432	0.81791	0.82164	0.82549	0.82947	0.83357	0.83781	0.84217	0.84665	0.85123	0.85590	0.86066	0.86552	0.87046	0.87546	0.88051	0.88559	0.89068	
60	0.80371	0.80730	0.81102	0.81488	0.81887	0.82300	0.82727	0.83167	0.83619	0.84084	0.84559	0.85044	0.85540	0.86046	0.86560	0.87080	0.87606	0.88135	
61	0.79275	0.79632	0.80003	0.80389	0.80788	0.81202	0.81631	0.82074	0.82530	0.82999	0.83480	0.83972	0.84477	0.84994	0.85520	0.86054	0.86596	0.87143	
62	0.78150	0.78506	0.78875	0.79259	0.79658	0.80072	0.80501	0.80946	0.81404	0.81876	0.82362	0.82860	0.83372	0.83897	0.84434	0.84981	0.85536	0.86099	
63	0.76994	0.77346	0.77713	0.78095	0.78492	0.78905	0.79333	0.79778	0.80237	0.80712	0.81200	0.81702	0.82220	0.82752	0.83297	0.83854	0.84422	0.84999	
64	0.75815	0.76163	0.76527	0.76905	0.77300	0.77710	0.78137	0.78581	0.79040	0.79515	0.80005	0.80509	0.81030	0.81568	0.82119	0.82685	0.83263	0.83851	
65	0.74608	0.74952	0.75311	0.75685	0.76076	0.76483	0.76907	0.77349	0.77806	0.78280	0.78770	0.79275	0.79799	0.80339	0.80896	0.81467	0.82053	0.82652	
66	0.73374	0.73713	0.74067	0.74437	0.74823	0.75226	0.75646	0.76084	0.76538	0.77010	0.77498	0.78003	0.78526	0.79068	0.79627	0.80203	0.80795	0.81401	
67	0.72126	0.72459	0.72807	0.73171	0.73552	0.73949	0.74365	0.74798	0.75248	0.75716	0.76201	0.76704	0.77226	0.77767	0.78327	0.78905	0.80591	0.81012	
68	0.70855	0.71181	0.71523	0.71881	0.72255	0.72646	0.73056	0.73483	0.73928	0.74391	0.74872	0.75370	0.75890	0.76429	0.76988	0.77566	0.78163	0.78777	
69	0.69551	0.69870	0.70205	0.70555	0.70922	0.71306	0.71708	0.72129	0.72568	0.73024	0.73499	0.73992	0.74507	0.75042	0.75598	0.76174	0.76769	0.77384	
70	0.68225	0.68536	0.68862	0.69205	0.69564	0.69940	0.70334	0.70747	0.71177	0.71627	0.72094	0.72580	0.73088	0.73618	0.74169	0.74740	0.75333	0.75945	

Judge	Spouse																		
	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	
50	0.95140	0.95429	0.95707	0.95974	0.96232	0.96478	0.96714	0.96939	0.97153	0.97357	0.97551	0.97735	0.97908	0.98072	0.98227	0.98372	0.98508	0.98636	
51	0.94743	0.95053	0.95353	0.95642	0.95921	0.96188	0.96444	0.96689	0.96922	0.97144	0.97356	0.97556	0.97745	0.97924	0.98092	0.98250	0.98399	0.98538	
52	0.94298	0.94631	0.94955	0.95267	0.95568	0.95858	0.96137	0.96403	0.96657	0.96899	0.97130	0.97348	0.97555	0.97750	0.97935	0.98108	0.98270	0.98422	
53	0.93800	0.94157	0.94505	0.94842	0.95168	0.95482	0.95784	0.96073	0.96351	0.96615	0.96867	0.97106	0.97332	0.97546	0.97748	0.97938	0.98116	0.98283	
54	0.93246	0.93628	0.94001	0.94363	0.94715	0.95055	0.95383	0.95698	0.96000	0.96288	0.96563	0.96825	0.97074	0.97308	0.97530	0.97739	0.97935	0.98119	
55	0.92631	0.93039	0.93438	0.93827	0.94205	0.94573	0.94927	0.95269	0.95598	0.95913	0.96214	0.96501	0.96773	0.97031	0.97276	0.97505	0.97722	0.97924	
56	0.91957	0.92390	0.92815	0.93232	0.93638	0.94034	0.94417	0.94788	0.95145	0.95489	0.95817	0.96131	0.96430	0.96714	0.96983	0.97236	0.97475	0.97698	
57	0.91223	0.91681	0.92133	0.92578	0.93013	0.93438	0.93851	0.94252	0.94640	0.95013	0.95371	0.95715	0.96042	0.96354	0.96649	0.96929	0.97192	0.97440	
58	0.90429	0.90913	0.91391	0.91864	0.92328	0.92783	0.93227	0.93659	0.94078	0.94483	0.94874	0.95248	0.95607	0.95948	0.96273	0.96581	0.96872	0.97146	
59	0.89578	0.90086	0.90590	0.91090	0.91584	0.92069	0.92544	0.93009	0.93461	0.93899	0.94323	0.94731	0.95122	0.95496	0.95853	0.96191	0.96512	0.96815	
60	0.88665	0.89197	0.89727	0.90254	0.90775	0.91291	0.91798	0.92295	0.92781	0.93254	0.93712	0.94155	0.94582	0.94991	0.95382	0.95754	0.96107	0.96441	
61	0.87693	0.88246	0.88800	0.89353	0.89903	0.90448	0.90987	0.91517	0.92037	0.92545	0.93040	0.93520	0.93983	0.94429	0.94857	0.95265	0.95653	0.96021	
62	0.86668	0.87241	0.87818	0.88395	0.88972	0.89546	0.90116	0.90679	0.91233	0.91777	0.92309	0.92827	0.93329	0.93813	0.94279	0.94725	0.95152	0.95556	
63	0.85584	0.86176	0.86773	0.87373	0.87976	0.88578	0.89177	0.89772	0.90361	0.90941	0.91510	0.92067	0.92608	0.93133	0.93640	0.94126	0.94593	0.95037	
64	0.84450	0.85059	0.85675	0.86297	0.86922	0.87550	0.88179	0.88805	0.89427	0.90042	0.90649	0.91245	0.91827	0.92393	0.92944	0.93471	0.93980	0.94467	
65	0.83263	0.83885	0.84517	0.85158	0.85805	0.86458	0.87113	0.87769	0.88427	0.89073	0.89716	0.90351	0.90974	0.91583	0.92176	0.92749	0.93303	0.93834	
66	0.82021	0.82655	0.83302	0.83959	0.84625	0.85299	0.85979	0.86662	0.87347	0.88031	0.88710	0.89384	0.90047	0.90699	0.91336	0.91955	0.92556	0.93134	
67	0.80739	0.81383	0.82040	0.82711	0.83394	0.84087	0.84789	0.85498	0.86211	0.86926	0.87640	0.88351	0.89055	0.89748	0.90431	0.91096	0.91745	0.92372	
68	0.79409	0.80059	0.80725	0.81407	0.82103	0.82813	0.83534	0.84265	0.85004	0.85748	0.86495	0.87241	0.87984	0.88720	0.89447	0.90159	0.90856	0.91533	
69	0.78018	0.78671	0.79343	0.80033	0.80740	0.81463	0.82200	0.82951	0.83712	0.84482	0.85259	0.86039	0.86819	0.87595	0.88365	0.89124	0.89871	0.90599	
70	0.76579	0.77233	0.77908	0.78603	0.79317	0.80049	0.80799	0.81566	0.82346	0.83139	0.83942	0.84753	0.85567	0.86381	0.87194	0.87998	0.88794	0.89574	

PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO
Rules for the Judges' Retirement Fund

Docket No. 59-0201-2301
PENDING RULE

APPENDIX A

Judges' Retirement Fund of the State of Idaho
 50% Contingent Annuitant Factors for Non-Spouses
 For all Judges, irrespective of hire date

Non-Spouse		40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57
Judge	50	0.91590	0.91862	0.92136	0.92414	0.92694	0.92976	0.93259	0.93541	0.93823	0.94102	0.94379	0.94651	0.94920	0.95184	0.95442	0.95694	0.95939	0.96175
	51	0.91017	0.91298	0.91583	0.91871	0.92162	0.92456	0.92752	0.93048	0.93344	0.93638	0.93931	0.94220	0.94506	0.94787	0.95063	0.95333	0.95596	0.95851
	52	0.90402	0.90692	0.90986	0.91284	0.91587	0.91892	0.92201	0.92511	0.92821	0.93131	0.93439	0.93745	0.94048	0.94348	0.94642	0.94931	0.95213	0.95488
	53	0.89740	0.90038	0.90341	0.90649	0.90962	0.91280	0.91601	0.91924	0.92249	0.92574	0.92898	0.93221	0.93542	0.93860	0.94174	0.94482	0.94784	0.95079
	54	0.89029	0.89335	0.89647	0.89965	0.90288	0.90617	0.90950	0.91287	0.91626	0.91966	0.92306	0.92646	0.92985	0.93321	0.93655	0.93983	0.94306	0.94623
	55	0.88266	0.88579	0.88900	0.89227	0.89561	0.89900	0.90246	0.90595	0.90948	0.91303	0.91659	0.92016	0.92373	0.92728	0.93081	0.93431	0.93775	0.94113
	56	0.87452	0.87773	0.88101	0.88437	0.88781	0.89131	0.89488	0.89850	0.90216	0.90586	0.90958	0.91331	0.91706	0.92080	0.92453	0.92824	0.93190	0.93550
	57	0.86588	0.86915	0.87251	0.87596	0.87949	0.88309	0.88677	0.89051	0.89431	0.89815	0.90202	0.90592	0.90984	0.91377	0.91770	0.92161	0.92550	0.92933
	58	0.85673	0.86007	0.86350	0.86703	0.87065	0.87435	0.87813	0.88199	0.88592	0.88989	0.89391	0.89797	0.90206	0.90618	0.91031	0.91443	0.91853	0.92260
	59	0.84709	0.85049	0.85399	0.85760	0.86129	0.86509	0.86897	0.87294	0.87699	0.88110	0.88526	0.88947	0.89374	0.89804	0.90236	0.90669	0.91101	0.91530
	60	0.83693	0.84038	0.84395	0.84762	0.85140	0.85527	0.85926	0.86333	0.86749	0.87173	0.87603	0.88039	0.88482	0.88929	0.89380	0.89834	0.90287	0.90740
	61	0.82624	0.82974	0.83337	0.83710	0.84095	0.84491	0.84898	0.85315	0.85742	0.86178	0.86621	0.87071	0.87530	0.87994	0.88464	0.88937	0.89412	0.89887
	62	0.81507	0.81862	0.82229	0.82609	0.83000	0.83403	0.83819	0.84245	0.84683	0.85130	0.85585	0.86049	0.86522	0.87003	0.87490	0.87983	0.88478	0.88976
	63	0.80336	0.80695	0.81067	0.81451	0.81849	0.82259	0.82682	0.83117	0.83564	0.84021	0.84489	0.84965	0.85452	0.85949	0.86453	0.86964	0.87480	0.87999
	64	0.79117	0.79480	0.79856	0.80245	0.80648	0.81064	0.81494	0.81937	0.82392	0.82860	0.83338	0.83826	0.84327	0.84838	0.85358	0.85886	0.86421	0.86961
	65	0.77844	0.78210	0.78589	0.78982	0.79390	0.79811	0.80247	0.80697	0.81161	0.81637	0.82125	0.82624	0.83137	0.83662	0.84198	0.84743	0.85296	0.85856
	66	0.76515	0.76883	0.77265	0.77662	0.78073	0.78499	0.78941	0.79397	0.79868	0.80352	0.80849	0.81358	0.81883	0.82420	0.82970	0.83530	0.84101	0.84680
	67	0.75140	0.75510	0.75894	0.76294	0.76708	0.77138	0.77584	0.78046	0.78523	0.79014	0.79519	0.80038	0.80572	0.81122	0.81684	0.82259	0.82846	0.83442
	68	0.73709	0.74080	0.74465	0.74867	0.75284	0.75717	0.76167	0.76634	0.77116	0.77613	0.78125	0.78652	0.79196	0.79755	0.80330	0.80918	0.81519	0.82132
	69	0.72206	0.72577	0.72964	0.73366	0.73785	0.74221	0.74674	0.75144	0.75630	0.76133	0.76651	0.77184	0.77736	0.78305	0.78890	0.79491	0.80105	0.80733
	70	0.70640	0.71011	0.71397	0.71800	0.72220	0.72657	0.73112	0.73585	0.74075	0.74582	0.75105	0.75644	0.76203	0.76780	0.77374	0.77985	0.78612	0.79253
Non-Spouse		58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75
Judge	50	0.96404	0.96624	0.96836	0.97039	0.97234	0.97419	0.97596	0.97765	0.97925	0.98076	0.98220	0.98355	0.98483	0.98604	0.98717	0.98823	0.98923	0.99016
	51	0.96098	0.96337	0.96567	0.96787	0.96999	0.97201	0.97394	0.97578	0.97752	0.97918	0.98075	0.98223	0.98363	0.98494	0.98618	0.98734	0.98843	0.98945
	52	0.95754	0.96012	0.96261	0.96501	0.96731	0.96951	0.97162	0.97363	0.97554	0.97735	0.97907	0.98069	0.98223	0.98367	0.98503	0.98630	0.98749	0.98860
	53	0.95366	0.95645	0.95914	0.96175	0.96425	0.96665	0.96895	0.97114	0.97323	0.97522	0.97711	0.97889	0.98058	0.98216	0.98365	0.98505	0.98636	0.98758
	54	0.94931	0.95232	0.95523	0.95805	0.96077	0.96338	0.96589	0.96829	0.97058	0.97276	0.97484	0.97680	0.97865	0.98040	0.98204	0.98359	0.98503	0.98638
	55	0.94444	0.94767	0.95082	0.95387	0.95682	0.95967	0.96241	0.96503	0.96754	0.96993	0.97221	0.97437	0.97641	0.97834	0.98015	0.98186	0.98346	0.98495
	56	0.93905	0.94252	0.94590	0.94920	0.95240	0.95549	0.95847	0.96133	0.96408	0.96670	0.96920	0.97158	0.97383	0.97596	0.97797	0.97986	0.98163	0.98329
	57	0.93311	0.93683	0.94046	0.94402	0.94747	0.95082	0.95406	0.95719	0.96019	0.96306	0.96581	0.96842	0.97091	0.97326	0.97548	0.97757	0.97953	0.98137
	58	0.92662	0.93058	0.93448	0.93830	0.94202	0.94565	0.94916	0.95256	0.95583	0.95898	0.96199	0.96487	0.96760	0.97020	0.97265	0.97497	0.97715	0.97919
	59	0.91957	0.92379	0.92795	0.93203	0.93604	0.93994	0.94375	0.94744	0.95100	0.95444	0.95773	0.96089	0.96390	0.96676	0.96948	0.97204	0.97445	0.97672
	60	0.91191	0.91638	0.92081	0.92517	0.92946	0.93366	0.93777	0.94176	0.94563	0.94937	0.95298	0.95643	0.95974	0.96289	0.96589	0.96872	0.97140	0.97391
	61	0.90362	0.90835	0.91305	0.91769	0.92227	0.92678	0.93119	0.93550	0.93969	0.94376	0.94769	0.95147	0.95509	0.95856	0.96186	0.96499	0.96796	0.97075
	62	0.89475	0.89973	0.90469	0.90962	0.91449	0.91930	0.92404	0.92867	0.93320	0.93760	0.94187	0.94600	0.94996	0.95376	0.95740	0.96088	0.96413	0.96722
	63	0.88520	0.89044	0.89566	0.90087	0.90604	0.91116	0.91622	0.92119	0.92606	0.93082	0.93544	0.93993	0.94426	0.94842	0.95241	0.95621	0.95983	0.96325
	64	0.87505	0.88053	0.88601	0.89150	0.89696	0.90239	0.90777	0.91309	0.91831	0.92343	0.92843	0.93329	0.93800	0.94254	0.94691	0.95110	0.95507	0.95885
	65	0.86421	0.86992	0.87566	0.88141	0.88717	0.89291	0.89861	0.90427	0.90985	0.91534	0.92072	0.92598	0.93109	0.93603	0.94080	0.94538	0.94976	0.95393
	66	0.85266	0.85859	0.86457	0.87059	0.87663	0.88267	0.88870	0.89470	0.90064	0.90651	0.91229	0.91795	0.92347	0.92883	0.93403	0.93903	0.94384	0.94843
	67	0.84048	0.84662	0.85284	0.85911	0.86542	0.87176	0.87811	0.88444	0.89075	0.89699	0.90317	0.90924	0.91519	0.92099	0.92664	0.93208	0.93734	0.94237
	68	0.82756	0.83390	0.84034	0.84685	0.85343	0.86005	0.86671	0.87338	0.88004	0.88666	0.89324	0.89973	0.90611	0.91236	0.91847	0.92439	0.93012	0.93563
	69	0.81374	0.82027	0.82691	0.83365	0.84048	0.84738	0.85434	0.86133	0.86834	0.87534	0.88231	0.88923	0.89606	0.90277	0.90936	0.91577	0.92201	0.92802
	70	0.79909	0.80580	0.81263	0.81959	0.82665	0.83381	0.84105	0.84836	0.85571	0.86308	0.87044	0.87778	0.88506	0.89224	0.89932	0.90624	0.91299	0.91954

PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO
Rules for the Judges' Retirement Fund

Docket No. 59-0201-2301
PENDING RULE

APPENDIX A

Judges' Retirement Fund of the State of Idaho
 100% Contingent Annuity Factors for Non-Spouses
 For all Judges, irrespective of hire date

Judge	Non-Spouse																	
	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57
50	0.84485	0.84948	0.85420	0.85898	0.86384	0.86874	0.87369	0.87867	0.88365	0.88862	0.89356	0.89846	0.90332	0.90811	0.91282	0.91744	0.92194	0.92633
51	NA	0.83989	0.84472	0.84964	0.85464	0.85970	0.86483	0.86999	0.87518	0.88038	0.88556	0.89071	0.89584	0.90091	0.90591	0.91083	0.91564	0.92033
52	NA	NA	0.83462	0.83966	0.84479	0.85001	0.85530	0.86065	0.86604	0.87145	0.87686	0.88226	0.88765	0.89300	0.89830	0.90352	0.90864	0.91365
53	NA	NA	NA	0.82898	0.83423	0.83958	0.84503	0.85055	0.85613	0.86174	0.86738	0.87302	0.87867	0.88430	0.88989	0.89541	0.90086	0.90620
54	NA	NA	NA	NA	0.82296	0.82844	0.83402	0.83970	0.84545	0.85127	0.85712	0.86299	0.86889	0.87479	0.88067	0.88650	0.89226	0.89794
55	NA	NA	NA	NA	NA	0.81654	0.82225	0.82807	0.83399	0.83998	0.84603	0.85212	0.85826	0.86442	0.87058	0.87671	0.88280	0.88881
56	NA	NA	NA	NA	NA	NA	0.80976	0.81570	0.82177	0.82792	0.83416	0.84045	0.84682	0.85323	0.85966	0.86608	0.87248	0.87882
57	NA	NA	NA	NA	NA	NA	NA	0.80264	0.80883	0.81513	0.82153	0.82801	0.83459	0.84124	0.84792	0.85463	0.86132	0.86799
58	NA	NA	NA	NA	NA	NA	NA	NA	0.79520	0.80163	0.80818	0.81483	0.82160	0.82846	0.83538	0.84235	0.84934	0.85632
59	NA	NA	NA	NA	NA	NA	NA	NA	0.78747	0.79415	0.80095	0.80789	0.81494	0.82209	0.82930	0.83656	0.84383	0.85110
60	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.77941	0.78634	0.79343	0.80065	0.80800	0.81543	0.82294	0.83050	0.83809
61	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.77103	0.77825	0.78562	0.79314	0.80078	0.80851	0.81632	0.82415
62	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.76246	0.76996	0.77763	0.78544	0.79338	0.80141	0.80952
63	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.75360	0.76139	0.76934	0.77746	0.78570	0.79407
64	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.74456	0.75264	0.76089	0.76931	0.77789
65	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.73525	0.74361	0.75217	0.76092
66	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.72564	0.73430	0.74315
67	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.71588	0.72491
68	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.70599
69	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.69599
70	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.68584

Judge	Non-Spouse																	
	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75
50	0.93058	0.93469	0.93867	0.94249	0.94617	0.94969	0.95306	0.95627	0.95933	0.96225	0.96501	0.96764	0.97012	0.97246	0.97466	0.97674	0.97869	0.98051
51	0.92489	0.92932	0.93361	0.93774	0.94172	0.94554	0.94920	0.95270	0.95603	0.95921	0.96222	0.96508	0.96778	0.97034	0.97274	0.97500	0.97713	0.97911
52	0.91855	0.92331	0.92792	0.93239	0.93669	0.94083	0.94481	0.94861	0.95224	0.95571	0.95900	0.96212	0.96507	0.96786	0.97050	0.97297	0.97529	0.97746
53	0.91143	0.91653	0.92150	0.92631	0.93096	0.93545	0.93977	0.94391	0.94786	0.95164	0.95524	0.95866	0.96189	0.96495	0.96783	0.97054	0.97309	0.97547
54	0.90351	0.90897	0.91430	0.91948	0.92450	0.92936	0.93404	0.93854	0.94285	0.94697	0.95091	0.95465	0.95819	0.96155	0.96472	0.96770	0.97050	0.97313
55	0.89473	0.90055	0.90625	0.91181	0.91722	0.92246	0.92753	0.93242	0.93712	0.94162	0.94592	0.95001	0.95390	0.95759	0.96108	0.96436	0.96745	0.97035
56	0.88510	0.89128	0.89736	0.90331	0.90912	0.91477	0.92025	0.92555	0.93065	0.93555	0.94025	0.94473	0.94900	0.95305	0.95689	0.96051	0.96392	0.96712
57	0.87461	0.88116	0.88762	0.89397	0.90018	0.90625	0.91216	0.91789	0.92342	0.92875	0.93388	0.93878	0.94346	0.94791	0.95213	0.95612	0.95989	0.96342
58	0.86327	0.87018	0.87702	0.88377	0.89040	0.89689	0.90324	0.90941	0.91540	0.92119	0.92676	0.93212	0.93724	0.94212	0.94676	0.95116	0.95531	0.95922
59	0.85111	0.85837	0.86558	0.87272	0.87976	0.88669	0.89349	0.90012	0.90658	0.91284	0.91889	0.92472	0.93031	0.93566	0.94076	0.94559	0.95018	0.95449
60	0.83808	0.84567	0.85324	0.86076	0.86822	0.87558	0.88283	0.88993	0.89687	0.90362	0.91018	0.91651	0.92260	0.92844	0.93403	0.93934	0.94439	0.94915
61	0.82419	0.83209	0.84001	0.84790	0.85576	0.86355	0.87124	0.87882	0.88625	0.89351	0.90057	0.90743	0.91405	0.92041	0.92653	0.93235	0.93790	0.94316
62	0.80954	0.81773	0.82597	0.83422	0.84246	0.85066	0.85880	0.86684	0.87476	0.88253	0.89013	0.89752	0.90469	0.91161	0.91828	0.92465	0.93074	0.93652
63	0.79405	0.80251	0.81104	0.81962	0.82822	0.83682	0.84539	0.85389	0.86230	0.87059	0.87872	0.88667	0.89440	0.90189	0.90914	0.91609	0.92276	0.92910
64	0.77786	0.78655	0.79535	0.80424	0.81318	0.82215	0.83112	0.84007	0.84896	0.85775	0.86642	0.87492	0.88324	0.89132	0.89917	0.90673	0.91401	0.92096
65	0.76089	0.76978	0.77882	0.78797	0.79722	0.80654	0.81589	0.82526	0.83461	0.84390	0.85309	0.86216	0.87106	0.87975	0.88822	0.89641	0.90433	0.91192
66	0.74316	0.75222	0.76145	0.77084	0.78036	0.78999	0.79970	0.80946	0.81924	0.82901	0.83872	0.84834	0.85782	0.86712	0.87623	0.88507	0.89366	0.90191
67	0.72485	0.73404	0.74343	0.75302	0.76277	0.77267	0.78270	0.79283	0.80301	0.81323	0.82343	0.83358	0.84364	0.85355	0.86330	0.87281	0.88207	0.89103
68	0.70584	0.71512	0.72464	0.73438	0.74433	0.75447	0.76477	0.77522	0.78577	0.79640	0.80707	0.81773	0.82834	0.83885	0.84924	0.85941	0.86938	0.87905
69	NA	0.69530	0.70490	0.71476	0.72486	0.73518	0.74572	0.75644	0.76732	0.77832	0.78941	0.80055	0.81169	0.82278	0.83379	0.84463	0.85530	0.86570
70	NA	NA	0.68440	0.69432	0.70452	0.71499	0.72571	0.73665	0.74781	0.75913	0.77061	0.78218	0.79382	0.80545	0.81706	0.82855	0.83991	0.85106