

PENDING RULES COMMITTEE RULES REVIEW BOOK

**Submitted for Review Before
House Commerce &
Human Resources Committee
67th Idaho Legislature
First Regular Session – 2023**



Prepared by:

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

January 2023

HOUSE COMMERCE & HUMAN RESOURCES COMMITTEE

ADMINISTRATIVE RULES REVIEW

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DOCKET NO. 15-0401-2201

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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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 Section 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.

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 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 300-314](#).

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 the state's General fund or any dedicated fund or federal fund because the changes are only verbiage in nature.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michelle Peugh, HR Policy and Program Officer, at michelle.peugh@dhr.idaho.gov or (208) 854-3073.

DATED this 25th day of November 2022.

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

THE FOLLOWING 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 67-5309, Idaho Code.

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

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

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

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

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

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

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

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

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

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

DATED this 20th day of September, 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 15-0401-2201

010. DEFINITION.

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

01. Administrative Leave. Temporary paid leave from a job assignment where pay and benefits

remain intact. (3-31-22)

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

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

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

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

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

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

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

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

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

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

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

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

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

~~**15. Due Process.** As related to Idaho's Personnel System for permanent classified employees, the activities required to address an individual's constitutional right to notice and an opportunity to be heard. (Ref. Section 67-5315, Idaho Code) (3-31-22)~~

~~**16. Employment History.** The information available to the public without the employee's consent in accordance with Section 74-106, Idaho Code, for every agency for which a current or former public official works, including the official reasons for separation from employment but not including accrued leave balances or usage. (3-31-22)~~

~~**17. Good Cause.** The conduct of a reasonable person in the same or similar circumstances. (3-31-22)~~

- 187. Hay Method.** A methodology for establishing the relative value of jobs and used as a dimension of the pay system. (3-31-22)
- 198. Hiring List.** A hiring list is a subset of a register consisting of the top twenty-five (25) individuals on the register, plus all individuals tied for the twenty-fifth position, certified as eligible for a specific recruitment. Candidates for reinstatement or transfer may be considered and are provided in addition to the top twenty-five (25). (3-31-22)
- 2019. Incumbent.** Any person holding a classified or non-classified position in state service. (3-31-22)
- 240. Independent Contractor.** Any person, firm, or corporation meeting the Internal Revenue Service's test for an independent contractor or a self-employed person. (Ref. Rule 050) (3-31-22)
- 221. Involuntary Transfer.** A significant change in work location, shift and/or organizational unit made as a result of a management decision as opposed to an employee's request or agreement to transfer. (3-31-22)
- 232. Layoff.** An involuntary reduction in hours of work or separation of an incumbent in the classified service either by reduction in force due to shortage of work or funds, or abolishment of positions. (3-31-22)
- 243. Light or Limited Duty.** A general term describing a temporary limited assignment in relation to recovery from injury, illness or other limiting condition as approved by the appointing authority. (3-31-22)
- 254. Merit Increase.** The advancement of an employee's compensation within a pay grade based upon performance in accordance with Section 67-5309B(3) and (4), Idaho Code. (3-31-22)
- 265. Merit Increase Matrix.** A pay distribution tool used to advance employee pay based on performance and market data. (3-31-22)
- 276. Minimum Qualification Specialty.** A minimum qualification required for one (1) or more positions in a classification that is in addition to the other minimum qualifications required for all positions in the classification. (3-31-22)
- 287. Occasional or Sporadic Work.** Work that is voluntarily performed by an employee in a different capacity from the employee's regular work and is infrequent, irregular or occurring in scattered instances. (3-31-22)
- 298. On-Call Time.** Time when an employee is required to ~~carry a pager, cellular phone, or to leave word at home or with the agency where the employee may be reached if needed to work, and the employee can use the time effectively for personal purposes~~ **be available if called upon by their agency during hours that are outside of their normally defined work schedule.** (3-31-22)()
- 3029. Pay Line Exception.** A temporary assignment of pay grade, pursuant to Section 67-5309D, Idaho Code, in excess of the pay grade allocated pursuant to Section 67-5309B, Idaho Code, as approved by the administrator. (3-31-22)
- 340. Permanent Employee.** An employee in the classified service who has successfully completed entrance probation. Permanent employees remain subject to separation as set forth in these rules and Section 67-5309(n), Idaho Code. (3-31-22)
- 321. Promotion.** The advancement through the competitive process of an employee with permanent status from a position which he occupies in one (1) classification to a position in another classification having a higher paygrade. (3-31-22)
- 332. Reduction in Pay.** A reduction of an employee's salary from one (1) pay rate to a lower rate within the pay grade to which the employee's classification is allocated. (3-31-22)
- 343. Register.** A list of names of persons or the name of one (1) person who has been determined to be eligible for employment in a classification on the basis of examination and merit factors as established by the

administrator. ~~An adequate register lists at least five (5) names of eligible candidates currently available for consideration for each vacancy in the classification for which the register was established.~~ (3-31-22)()

- ~~354.~~ **Resignation.** The voluntary quitting or abandonment of state employment, excluding retirement. (3-31-22)
- ~~365.~~ **Respondent.** The party whose interests are adverse to those of the appellant. (3-31-22)
- ~~376.~~ **Salary Equity Increase.** The advancement of an employee's compensation within a pay grade based upon factors such as market demand, compression within the agency or classification, or inequities, and the employee's performance, in accordance with Section 67-5309B(3), Idaho Code. (3-31-22)
- ~~387.~~ **Suspension.** An enforced period of absence, with or without pay, for disciplinary purposes, for felony charges, or pending investigation of charges made against an employee pursuant to Rule 190. (3-31-22)
- ~~398.~~ **Termination.** The separation of an entrance or voluntary probationary employee from classified service for unsatisfactory service during the probationary period without cause assigned by the appointing authority pursuant to Rule 152. (3-31-22)
- ~~4039.~~ **Transfer.** A change of work location of an employee in which the employee changes from one (1) position to another in the same classification or to another classification in the same pay grade. (3-31-22)
- ~~470.~~ **Underfill.** Administrator-approved appointment to a position established at a higher classification while being compensated at a lower pay grade during completion of a training plan. (3-31-22)
- ~~421.~~ **USERRA.** Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. Sections 4301 through 4333. Prohibits employment discrimination against persons because of their service in the Armed Forces Reserve, the National Guard, or other uniformed services. (3-31-22)
- ~~432.~~ **Workweek.** A period of seven (7) consecutive days beginning 12:01 a.m. Sunday. (Ref. Rule 073) (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

072. OPERATION OF COMPENSATION PLAN.

- 01. Authorized Pay Rate.** No employee in the state classified service will be paid at a rate less than the minimum nor greater than the maximum rate of the pay grade assigned to the classification. (3-31-22)
- 02. Starting Salary.** The starting salary for a new appointee may be anywhere within the pay grade assigned to the employee's classification and is at the appointing authority's discretion considering available budget, market, and relation to existing staff salaries. (3-31-22)
- 03. Payline Exceptions.** Temporary assignments to a new pay grade may be made by the administrator. Such assignments apply to an entire classification for the purpose of recruitment or retention and will be reviewed annually to determine the need for continuance. (3-31-22)
- 04. Salary Equity Increases.** An appointing authority may, with approval by the administrator, advance an employee's salary within a pay grade based upon factors such as market demand, to address compression within an agency or classification, or inequities. In accordance with Section 67-5309B(3), Idaho Code, the employee's performance must be considered. (3-31-22)
- 05. Salary After Reappointment from Layoff.** Employees appointed by the agency that laid them off (Ref. Rules 101.01 and 146) will be paid in the current pay grade for the classification to which reappointed or at the same payrate the employee received immediately preceding layoff, whichever is greater, but not to exceed the

maximum of the current pay grade. (3-31-22)

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

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

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

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

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

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

073. CALCULATION OF PAY.

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

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

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

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

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

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

b. A full-time employee will receive holiday pay in accordance with the number of hours the employee works on a regular workday. If the employee's schedule is so irregular that a regular workday cannot be

determined, the employee will receive eight (8) hours of holiday pay. An employee must receive some paid leave, wages or salary for the pay period in which the holiday occurs to receive the holiday benefit. (3-31-22)

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

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

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

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

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

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

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

074. ASSIGNMENT OF HAY EVALUATION POINTS.

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

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

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

04. Factoring Process. Hay evaluation points shall be assigned to a classification ~~through the following methods, which may be used separately or in combination with the others:~~ (3-31-22)

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

05. ~~Approval.~~ After consultation with the by review and assignment of the administrator and with

~~notification to the~~ administrator of the Division of Financial Management ~~for approval~~ regarding potential fiscal impacts, ~~the administrator of the Division has final approval of the Hay evaluation points assigned to each classification.~~ These points are final unless appealed in accordance with Section 67-5316, Idaho Code.

~~(3-31-22)~~()

(BREAK IN CONTINUITY OF SECTIONS)

084. ANNOUNCEMENT OF RECRUITMENT.

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

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

(BREAK IN CONTINUITY OF SECTIONS)

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

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

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

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

a. Veterans' and disabled veterans' preference points, when applicable under state law, will be added to the final score achieved in the examinations, notwithstanding the fact that the augmented final score may exceed one hundred (100) points. Five (5) percentage points will be added to the earned rating of any veteran, as defined in Section 65-203, Idaho Code, and the widow or widower of any veteran, as defined in Section 65-203, Idaho Code, as long as the widow or widower remains unmarried. Pursuant to Section 65-504, Idaho Code, ten (10) percentage points will be added to the earned rating of any disabled veteran, as defined in Section 65-502, Idaho Code, or to the unmarried widow or widower of the same, or the spouse of any eligible disabled veteran who cannot qualify for any public employment because of a service-connected disability. Employment registers will be established in order of final score except that the names of all five (5) and ten (10) percentage point preference eligibles resulting from the merit system will be placed on the register in accordance with their augmented rating. (Ref. Sections 65-506 and 67-5309(f), Idaho Code) (3-31-22)

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

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

120. LIMITED SERVICE APPOINTMENTS.

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

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

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

124. REINSTATEMENTS.

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

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

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

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

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

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

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

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

125. TRANSFERS.

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

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

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

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

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

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

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

08. Involuntary Transfer. Notice and an opportunity to be heard must be given to any employee

subject to an involuntary transfer. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

129. ACTING APPOINTMENT TO A POSITION.

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

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

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

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

141. CALCULATION OF RETENTION POINTS.

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

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

(3-31-22)

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

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

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

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

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

150. PROBATIONARY PERIODS.

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

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

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

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

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

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

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

152. SEPARATION DURING PROBATION.

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

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

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

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

153. UNSATISFACTORY PERFORMANCE DURING A PROMOTION PROBATION PERIOD.

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

02. ~~Intra-Agency During Promotional Probation.~~ If an employee, on promotional probation, does not meet performance expectations, ~~he or she shall be returned to a position in the classification which he or she holds permanent status or to another classification in the same pay grade for which the employee meets minimum qualifications. If the employee refuses to accept the position, it is considered a voluntary resignation.~~ (3-31-22)()

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

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

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

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

200. PROBLEM-SOLVING AND DUE PROCESS PROCEDURES.

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

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

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

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

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

04. Elements of the Problem-Solving Procedure. The procedure must contain a statement from the agency head encouraging employees to use the procedure for any nondisciplinary, job-related matters, and encouraging the employee, supervisors, and upper-level managers and administrators to resolve the matter at the lowest management level possible within the organization. The statement must also provide a means whereby agency representatives can obtain timely authority, if needed, to resolve the matter. The procedure must require the employee to make a reasonable attempt to discuss the issue with the immediate supervisor before filing. After a written filing is received, the procedure must provide for such additional levels of management within the employee's chain of command as are appropriate in the agency. The procedure must also provide for the use of an impartial mediator upon agreement by the employee and agency. Timelines must not exceed five (5) working days between each step unless both the employee and the agency agree, in writing, to a specific number of days to extend the timelines herein, not to exceed thirty (30) days between each step. The procedure must also inform the employee that he is entitled to be represented by a person of the employee's own choosing at each step of the procedure, except the initial informal

discussion with the immediate supervisor. Two (2) or more employees may join in a single filing under the problem-solving procedure. Retaliation for filing under the problem-solving procedure, for participating as a witness, or representative is expressly prohibited. This procedure does not apply to unsatisfactory performance during entrance probation (Ref. Sections 67-5309(j), 67-5315(1)(4), Idaho Code, and Rule 152). (3-31-22)

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

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

243. MATERNITY AND PATERNITY LEAVE.

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

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

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

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

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

IDAPA 17 – INDUSTRIAL COMMISSION

17.01.01 – ADMINISTRATIVE RULES UNDER THE WORKER'S COMPENSATION LAW

DOCKET NO. 17-0101-2201

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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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 72-301, 72-301A, 72-304, 72-327, 72-432, 72-508, 72-528, 72-602, 72-803, and 72-806, 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 July 6, 2022 Idaho Administrative Bulletin, [Vol. 22-7, pages 121 through 123](#).

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 rule is not anticipated to have any impact on the state general fund.

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 26th day of October, 2022.

George Gutierrez
Director
Industrial Commission
11321 W. Chinden Blvd.
Boise, Idaho 83714
(208) 334-6000

THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2022.

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 72-301, 72-301A, 72-304, 72-327, 72-432, 72-508, 72-528, 72-602, 72-803, and 72-806, 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 July 20, 2022.

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

DESCRIPTIVE SUMMARY: The following is 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:

The current I.C. 72-404 requires the Commission to review all settlements in order to be satisfied that settlements are in the best interest of the parties. The current IDAPA 17.01.01.802.b.vii. requires attorneys to identify medical bills which are unpaid at the time of settlement and describe the treatment to be given to such bills from the proceeds of settlement. Resolution of unpaid bills is in the best interest of the claimant. HB 590 repeals the current I.C. 72-404 and replaces it with a new version of the statute which removes Commission responsibility to approve settlements in most cases. Accordingly, the Commission no longer has an interest in requiring claimants to specify how unpaid medical bills will be treated at the time of settlement. Removing this section of IDAPA is consistent with the new provisions of I.C. 72-404.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a) and (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This temporary rule will confer a benefit to all parties to settlements by conforming the rule to the provisions of the new statute.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fee imposed or increased by 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: This rulemaking is not anticipated to have any fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this temporary rule is eliminating redundant language and to align with implementing HB590.

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 not incorporated documents in this rulemaking.

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

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 July 27, 2022.

DATED this May 25, 2022.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0101-2201

802. RULE GOVERNING APPROVAL OF ATTORNEYS FEES.

- 01. Purpose.** The Industrial Commission promulgates this rule to govern the approval of attorney fees. (3-23-22)
- 02. Charges Presumed Reasonable:** (3-23-22)
- a.** In a case in which no hearing on the merits has been held, twenty-five percent (25%) of Available Funds shall be presumed reasonable; or (3-23-22)
- b.** In a case in which a hearing has been held and briefs submitted (or waived) under Judicial Rules of Practice and Procedure (JRP), Rules X and XI, thirty percent (30%) of Available Funds shall be presumed reasonable; or (3-23-22)
- c.** In any case in which compensation is paid for total permanent disability, fifteen percent (15%) of such disability compensation after ten (10) years from date such total permanent disability payments commenced. (3-23-22)
- 03. Statement of Charging Lien.** (3-23-22)
- a.** All requests for approval of fees shall be deemed requests for approval of a Charging Lien. (3-23-22)
- b.** An attorney representing a Claimant in a Worker's Compensation matter shall in any proposed LSS, or upon request of the Commission, file with the Commission, and serve the Claimant with a copy of the Fee Agreement, and an affidavit or memorandum containing: (3-23-22)
- i.** The date upon which the attorney became involved in the matter; (3-23-22)
- ii.** Any issues which were undisputed at the time the attorney became involved; (3-23-22)
- iii.** The total dollar value of all compensation paid or admitted as owed by employer immediately prior to the attorney's involvement; (3-23-22)
- iv.** Disputed issues that arose subsequent to the date the attorney was hired; (3-23-22)
- v.** Counsel's itemization of compensation that constitutes Available Funds; (3-23-22)
- vi.** Counsel's itemization of costs and calculation of fees; and (3-23-22)
- vii.** ~~Counsel's itemization of medical bills for which Claim was made in the underlying action, but which remain unpaid by employer/surety at the time of LSS, along with counsel's explanation of the treatment to be given such bills/claims following approval of the LSS.~~ (3-23-22)
- viii.** The statement of the attorney identifying with reasonable detail his or her fulfillment of each element of the Charging Lien. (3-23-22)
- c.** Upon receipt and a determination of compliance with this Rule by the Commission by reference to its staff, the Commission may issue an Order Approving Fees without a hearing. (3-23-22)

04. Procedure if Fees Are Determined Not to Be Reasonable. (3-23-22)

a. Upon receipt of the affidavit or memorandum, the Commission will designate staff members to determine reasonableness of the fee. The Commission staff will notify counsel in writing of the staff's informal determination, which shall state the reasons for the determination that the requested fee is not reasonable. Omission of any information required by Paragraph 802.02.b may constitute grounds for an informal determination that the fee requested is not reasonable. (3-23-22)

b. If counsel disagrees with the Commission staff's informal determination, counsel may file, within fourteen (14) days of the date of the determination, a Request for Hearing for the purpose of presenting evidence and argument on the matter. Upon receipt of the Request for Hearing, the Commission shall schedule a hearing on the matter. A Request for Hearing shall be treated as a motion under Rule III(e), JRP. (3-23-22)

c. The Commission shall order an employer to release any Available Funds in excess of those subject to the requested Charging Lien and may order payment of fees subject to the Charging Lien which have been determined to be reasonable. (3-23-22)

d. The proponent of a fee which is greater than the percentage of recovery stated in Subsection 802.02 shall have the burden of establishing by clear and convincing evidence entitlement to the greater fee. The attorney shall always bear the burden of proving by a preponderance of the evidence his or her assertion of a Charging Lien and reasonableness of his or her fee. (3-23-22)

05. Disclosure Statement. Upon retention, the attorney shall provide to Claimant a copy of a disclosure statement. No fee may be taken from a Claimant by an attorney on a contingency fee basis unless the Claimant acknowledges receipt of the disclosure by signing it. Upon request by the Commission, an attorney shall provide a copy of the signed disclosure statement to the Commission. The terms of the disclosure may be contained in the Fee Agreement, so long as it contains the following text: (3-23-22)

a. In worker's compensation matters, attorney's fees normally do not exceed twenty-five percent (25%) of the benefits your attorney obtains for you in a case in which no hearing on the merits has been completed. In a case in which a hearing on the merits has been completed, attorney's fees normally do not exceed thirty percent (30%) of the benefits your attorney obtains for you. (3-23-22)

b. Depending upon the circumstances of your case, you and your attorney may agree to a higher or lower percentage which would be subject to Commission approval. Further, if you and your attorney have a dispute regarding attorney fees, either of you may petition the Industrial Commission, PO Box 83720, Boise, ID 83720-0041, to resolve the dispute. (3-23-22)

IDAPA 17 – INDUSTRIAL COMMISSION

17.01.01 – ADMINISTRATIVE RULES UNDER THE WORKER'S COMPENSATION LAW

DOCKET NO. 17-0101-2202

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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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 72-301, 72-301A, 72-304, 72-327, 72-432, 72-508, 72-528, 72-602, 72-803, and 72-806, 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 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 202 through 204](#).

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 rule is not anticipated to have any impact on the state general fund.

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 26th day of October, 2022.

George Gutierrez
Director
Industrial Commission
11321 W. Chinden Blvd.
Boise, Idaho 83714
(208) 334-6000

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

EFFECTIVE DATE: The effective date of the temporary rule is August 3, 2022.

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 Section(s) 72-301, 72-301A, 72-304, 72-327, 72-432, 72-508, 72-528, 72-602, 72-803, and 72-806, 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 September 21, 2022.

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

DESCRIPTIVE SUMMARY: The following is 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: The Commission wishes to implement an update to the electronic claim reporting standard as a more efficient alternative to the maintenance of paper claims. The implementation date is coordinated with the Commission's broader systems modernization effort.

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 would confer a benefit by revising the implementation date of the proposed update of the electronic claim reporting standard to September 14, 2023.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fee imposed or increased by 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: This rulemaking is not anticipated to have any fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this temporary rule is simply revising the implementation date of the planned update of the electronic claim reporting standard to September 14, 2023.

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

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 September 28, 2022.

DATED this 3rd day of August, 2022.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0101-2202

002. WRITTEN INTERPRETATIONS.

The Industrial Commission uses the following guidelines for implementing the EDI reporting requirements set out in this Chapter: (3-23-22)

01. EDI Guide and Tables. The Idaho Industrial Commission Claims EDI Implementation Guide and Trading Partner Tables (“EDI Guide and Tables”). The Idaho Industrial Commission Claims EDI Implementation Guide and Trading Partner Tables are available on the Commission's website at <https://iic.idaho.gov/>. (3-23-22)

02. EDI Implementation Guide. International Association of Industrial Accidents Boards and Commissions (IAIABC) EDI Claims Release 3.0 or, after ~~December 1, 2022~~ September 14, 2023, Release 3.1, Implementation Guide (“EDI Implementation Guide”). The IAIABC Claims Release 3.0 and Release 3.1 Implementation Guides are available at the IAIABC website at <https://www.iaiaabc.org>. ~~(3-23-22)~~ ()

(BREAK IN CONTINUITY OF SECTIONS)

601. SUBMISSION OF FROI AND SROI.

01. Purpose. Pursuant to Sections 72-602(1)-(2), Idaho Code, employers must submit a FROI and/or SROI in accordance with these rules. (3-23-22)

02. EDI Reporting. The Commission requires electronic submission of FROIs and SROIs in accordance with the most current versions of the IAIABC EDI Claims Release 3.0, or release 3.1 after ~~December 1, 2022~~ September 14, 2023, and the Commission's EDI Guides and Tables from any employer not otherwise exempt by these rules. Each FROI and SROI must comply with formatting requirements and must contain the information identified as mandatory or mandatory conditional, as applicable. ~~(3-23-22)~~ ()

03. Trading Partner Agreements. Before commencing with electronic reporting, Trading Partners shall electronically submit a Trading Partner Agreement with the Commission, which the Commission must approve prior to submitting reports. This agreement must provide the effective date to send and receive electronic reports, the acceptable data to be sent and received, the method of transmission to be used, and other pertinent elements. This agreement will identify the insurance carrier, the Claims Administrator, the sender of the electronic files, and the electronic filing method. To ensure the accuracy of reported data, the Trading Partner must maintain their profile to reflect changes as they occur and the Commission may make periodic audits of Trading Partner files. In the event that a Trading Partner Agreement is entered into by a Claims Administrator, notice to the Trading Partner of a FROI shall be deemed to be notice to the underlying insurance carrier or self-insured employer. (3-23-22)

04. Report Form and Content for Parties Exempt from EDI Requirements. (3-23-22)

a. Individual injured workers, injured worker's legal counsel, and employers that are not insured are not required to comply with EDI requirements for FROIs and SROIs. (3-23-22)

b. Parties exempt from EDI requirements must submit FROIs on a form 1A-1 and SROIs on a form IC-8, or in a format substantially similar. Both forms are available on the Commission's website. (3-23-22)

05. Retaining Claims Files. Upon request of the Commission, insurance carriers, Claims Administrators, or employers shall provide to the Commission, in whole or in part according to the request, a copy of the claim file at no cost to the Commission. All insurance carriers, Claims Administrators, or employers shall retain complete copies of claims files for the life of the Claim and a minimum of five (5) years from the date of closure. (3-23-22)

06. Filing Not an Admission. Filing a FROI is not an admission of liability and is not conclusive evidence of any fact stated therein. If a Claim is submitted electronically, no signatures are required. (3-23-22)

07. Filing Considered Authorization. Filing of a Claim shall be considered an authorization for the

release of medical records that are relevant to or bearing upon the particular injury or occupational disease for which the Claimant is seeking compensation. (3-23-22)

08. Timely Response Requirement. When the Commission requests additional information in order to process the Claim, the Claimant or employer shall provide the requested information promptly. The Commission request may be either in writing or telephonic. (3-23-22)

602. FINAL REPORTS.

01. Report Requirements. An electronic filing of the Final Report as prescribed by Commission EDI requirements shall be filed for all indemnity claims or any claims resolved by lump sum settlement within thirty (30) days from the date the surety or self-insured employer closes the claim file. In the case of medical-only claims, no Final Report need be filed. For death claims and permanent total disability claims, Annual Reports shall be filed within the first quarter of each calendar year. A Final Report shall be filed within thirty (30) days from the date the surety or self-insured employer closes the death or permanent total disability claim file. In the event the Commission is unable to reconcile the Annual Report or Final Report, a request for additional information may be made, either in writing or telephonically, and the surety or self-insured employer shall submit the requested information within fifteen (15) working days of the request. If the surety or self-insured employer is unable to furnish the requested information, the surety or self-insured employer shall notify the Commission, in writing, of its inability to respond and the reasons therefor within fifteen (15) workings days of the request. (3-23-22)

02. Format. The required format for Final Reports is contingent on the claim file date: (3-23-22)

a. Final Reports for legacy claims filed on paper or via EDI Claims 1.0 prior to November 4, 2017, shall be submitted in a format substantially similar to IC Form 6, available on the Commission's website, or EDI Claims Release 3.1 after ~~December 1, 2022~~ **September 14, 2023**. (~~3-23-22~~)()

b. Final Reports for legacy claims filed via EDI Claims 3.0 shall be submitted electronically via EDI Claims 3.0, or EDI Claims 3.1 after ~~December 1, 2022~~ **September 14, 2023**. (~~3-23-22~~)()

03. Change in Status of Employer. In case of any default by the Employer or in the event the Employer shall fail to pay any final award or awards, by reason of insolvency or because a receiver has been appointed, the receiver or successor shall continue to report to the Commission, including the submission of Annual Reports, Final Reports and schedules of outstanding awards. (3-23-22)

IDAPA 17 – INDUSTRIAL COMMISSION
17.11.01 – ADMINISTRATIVE RULES OF PEACE OFFICER AND
DETENTION OFFICER TEMPORARY DISABILITY ACT
DOCKET NO. 17-1101-2201 (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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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 Section 72-1104, 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 October 5, 2022, Idaho Administrative Bulletin, [Vol. 22-10, pages 325 through 327](#).

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 rule is not anticipated to have any impact on the state general fund.

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 31st day of October, 2022.

George Gutierrez
Director
Industrial Commission
11321 W. Chinden Blvd.
Boise, Idaho 83714
(208) 334-6000

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 72-1104, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Virtual Public Hearing via WebEx
Tuesday, October 11, 2022 1:00 p.m. to 2:00 p.m. (MT)
Join from the meeting link https://idahogov.webex.com/idahogov/j.php?MTID=m7c98976f7a1802aa314a3e8ba707b9c1
Join by Phone: 1-415-655-0001
Meeting access code: 2454 910 5724
Meeting password: MXjMPXTb872

Virtual Public Hearing via WebEx
Thursday, October 20, 2022 10:30 a.m. to 11:30 a.m. (MT)
Join from the meeting link https://idahogov.webex.com/idahogov/j.php?MTID=m06b78170452649095d8d237214918410
Join by Phone: 1-415-655-0001
Meeting access code: 2459 297 3645
Meeting password: 73ZmzJXw4jW

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, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The rule changes are intended to perform a comprehensive review of this chapter by collaborating with the public to streamline or simplify this rule language.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fee or charge imposed or increased.

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 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 April 6, 2022 Idaho Administrative Bulletin, [Vol 22-4, pages 35-36](#).

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 incorporations by reference contained in this chapter of administrative rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kamerron Slay at 208-334-6017.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Kamerron Slay, 208-334-6017 or kamerron.slay@iic.idaho.gov and must be delivered on or before October 31, 2022.

DATED this 31st day of August.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 17-1101-2201

**17.11.01 – ADMINISTRATIVE RULES OF PEACE OFFICER AND
DETENTION OFFICER TEMPORARY DISABILITY ACT**

000. LEGAL AUTHORITY.

Section 72-1104, Idaho Code. ()

001. SCOPE.

This chapter includes the Industrial Commission's rules regarding the Peace Office Temporary Disability Fund. ()

002. -- 010. (RESERVED)

**011. RULE GOVERNING APPLICATIONS FOR REIMBURSEMENT FROM THE PEACE OFFICER
AND DETENTION OFFICER TEMPORARY DISABILITY FUND.**

01. Application. An employer eligible to seek reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund may do so on the form provided by the Commission, available online. ()

02. Payments. Payments to employers requesting reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund will be made within thirty (30) days of receipt of an approved request for reimbursement, subject to the availability of money in that fund. ()

03. Disputes. To the extent practicable, disputes arising under Chapter 11, Title 72 will be resolved by the Industrial Commission in accordance with the Judicial Rules of Practice and Procedure under the Idaho Workers' Compensation laws (JRP) and statutes governing the resolution of disputes in Workers' Compensation cases. Dispute resolution is initiated by the filing of a complaint. ()

012. -- 999. (RESERVED)

IDAPA 21 – IDAHO DIVISION OF VETERANS SERVICES

21.01.01 – RULES GOVERNING ADMISSION, RESIDENCY, AND MAINTENANCE CHARGES IN IDAHO STATE VETERANS HOMES AND DIVISION OF VETERANS SERVICES ADMINISTRATIVE PROCEDURE

DOCKET NO. 21-0101-2201

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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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 65-202; 65-204; and 66-907, 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.

This rule change removes a contradiction in the existing rule that conflicts with Title 14 Chapter 5, Idaho Code, the Unclaimed Property Act (UCPA). It also clarifies the rights of a resident regarding a notice of transfer or discharge and the rights of an applicant regarding notice of a denial of an application for residency.

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 November 2022 Idaho Administrative Bulletin, [Vol. 22-11, pages 39-42](#).

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: None.

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

DATED this 21st day of November 2022.

Kevin Wallior, Management Assistant
Idaho Division of Veterans Services
351 Collins Road
Boise, ID 83702
Phone: 208-780-1308
Fax: 208-780-1301
Email: kevin.wallior@veterans.idaho.gov

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 65-202; 65-204; and 66-907, 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 16, 2022.

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

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

This rule change removes a contradiction in the existing rule that conflicts with Title 14 Chapter 5, Idaho Code, the Unclaimed Property Act (UCPA). It also clarifies the rights of a resident regarding a notice of transfer or discharge and the rights of an applicant regarding notice of a denial of an application for residency.

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: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this brings the Division's existing rule in alignment with existing Idaho Statute.

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 Kevin Wallior at 208-780-1308.

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 23, 2022.

DATED this November 2, 2022.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0101-2201

200. ~~CONDITIONS FOR DENIAL OF~~ ADMISSION.

01- ~~Denial of Admission.~~ Admission may be denied to an otherwise eligible applicant for any reason for which an admitted resident could be involuntarily discharged. ~~(3-23-22)~~()

02- ~~Assignment of Personal Property.~~ *Prior to admission to a Home, an eligible applicant must agree*

~~that while he is a resident of a Home he will assign the following, under the conditions specified: (3-23-22)~~

~~a. Pursuant to Section 66-906, Idaho Code, all personal property owned, money held, or assets to which he is entitled at the time of his death— unless disposed of by will or rightfully claimed within five (5) years of the death of the resident by an heir or person named in the resident's will— must be assigned to the Division Administrator at the time of application for the sole use and benefit of a Home. (3-23-22)~~

~~b. Upon discharge or voluntary departure from a Home, and after written notification is sent to the resident, all personal property owned or money deposited with the Home which is unclaimed by the former resident will be converted for the sole use and benefit of a Home as specified below: (3-23-22)~~

~~i. Personal property unclaimed within thirty (30) days of departure or discharge will be made available to needy Home residents or disposed of at public auction or private sale and the proceeds deposited with the state; or (3-23-22)~~

~~ii. Money deposited with the Home will be retained and deposited with the state; however, said money may be claimed by the former resident within five (5) years of departure or discharge. (3-23-22)~~

(BREAK IN CONTINUITY OF SECTIONS)

980. NOTICE OF RESIDENT TRANSFER OR DISCHARGE AND NOTICE OF DENIAL OF AN APPLICATION FOR RESIDENCY.

The Home Administrator or his designee must notify the applicant or resident of any action to be taken regarding rejection of an application or involuntary transfer or discharge from a Home. The Home does not need to provide notice of voluntary transfer or discharge pursuant to Subsection 350.04 of these rules. (3-23-22)()

01. Form of Notice. (3-23-22)

~~a. The notices of denial of application may be made orally. (3-23-22)~~

~~b. The notice of or ineligibility for residency; transfer; or discharge must be in writing. (3-23-22)()~~

02. Content of Notice of Transfer or Discharge. The notice must state the following: (3-23-22)

a. The reason for the impending action and a reference to the pertinent rules under which the action is being brought or decision has been made; (3-23-22)

b. The effective date of the action; (3-23-22)

c. The location to which the resident is transferred or discharge, which is established for Nursing Care transfers and discharges only; (3-23-22)

d. The applicant's or resident's right to request a hearing according to the provisions deadlines in Section 982 of these rules; and (3-23-22)()

e. The procedure for requesting a hearing, as provided in Subsection 982.03 of these rules. (3-23-22)

f. The name, address, and telephone number of the State long term care ombudsman; (3-23-22)

g. The name, address, and telephone number of the State Disability Rights agency responsible for the protection and advocacy for those residents with developmental disabilities or mental illness. (3-23-22)

03. Notification Deadlines for Domiciliary Care. The Notice shall be provided to the applicant or resident according to the following notification deadlines are established for Domiciliary Care only:

~~(3-23-22)()~~

a. Denial of application or findings of ineligibility. Notice of a denial of application or findings of ineligibility for residency must be mailed to the applicant within three (3) working days after receipt of the completed application citing the reasons for rejection. ()

#b. Domiciliary Care. Discharge or transfer notices to residents receiving Domiciliary Care must be sent to the resident three (3) days prior to the intended effective date of the action, except under the conditions noted in Subsections 350.01, 350.03 and 350.04 of these rules. ~~(3-23-22)()~~

~~b-~~ ~~Notification of findings of ineligibility for residency will be mailed to the applicant within three (3) working days after receipt of the completed application citing the reasons for rejection.~~ ~~(3-23-22)~~

~~04-~~ ~~Notification Deadlines for Residential Care.~~ The following notification deadlines are established for Residential Care only: ~~(3-23-22)~~

#c. Residential Care. Discharge or transfer notices to residents receiving Residential Care must be sent to the resident fifteen (15) days prior to the intended effective date of the action, except under the conditions noted in Subsections 350.01, 350.03 and 350.04 of these rules. ~~(3-23-22)()~~

~~b-~~ ~~Notification of findings of ineligibility for residency will be mailed to the applicant within three (3) working days after receipt of the completed application citing the reasons for rejection.~~ ~~(3-23-22)~~

~~05-~~ ~~Notification Deadlines for Nursing Care.~~ The following notification deadlines are established for Nursing Care only: ~~(3-23-22)~~

d. Nursing Care. Residents receiving Nursing Care must receive notice as follows: ()

#i. Notices of general discharge or transfer pursuant to Subsection 350.02 of these rules must be sent to the resident thirty (30) days prior to the intended effective date of the action. (3-23-22)

#ii. Notices of emergency discharge or transfer pursuant to Subsection 350.01 of these rules must be sent to the resident as soon as practical. (3-23-22)

#iii. Notices of discharge or transfer during absence pursuant to Subsection 350.03 of these rules must be sent to the resident within three (3) working days of the Home's determination to transfer or discharge. ~~(3-23-22)()~~

#iv. Notice of discharge or transfer for unauthorized absences pursuant to Paragraph 350.02.g. of these rules must be sent to the resident within three (3) days of the last unauthorized absence establishing a basis for discharge. ~~(3-23-22)()~~

~~e-~~ ~~The Home does not need to provide notice of voluntary transfer or discharge pursuant to Subsection 350.04 of these rules.~~ ~~(3-23-22)~~

~~f-~~ ~~Notification of the denial of an application for residency will be mailed to the applicant within three (3) working days after receipt of the completed application citing the reasons for rejection.~~ ~~(3-23-22)~~

(BREAK IN CONTINUITY OF SECTIONS)

982. PROVISIONS FOR CONTESTED CASES.

01. Inapplicability of Idaho Rules of Administrative Procedure of the Attorney General. All contested cases shall be governed by the provisions of these rules. The Commission and Division Administrator find that the provisions of IDAPA 04.11.01, et seq., "Idaho Rules of Administrative Procedure of the Attorney General,"

are inapplicable and inappropriate for contested cases before the Commission, because of the specific and unique requirements of federal and state law regarding notices, hearing processes, procedural requirements, time lines, and other provisions requiring the Division to adopt its own procedures pursuant to Section 67-5206(5)(b), Idaho Code, and hereby affirmatively promulgate and adopt alternative procedures and elect not to be governed by any of the provisions of IDAPA 04.11.01, et seq., “Idaho Rules of Administrative Procedure of the Attorney General.” (3-23-22)

02. Hearing Rights. Residents and applicants have the following rights to a hearing: (3-23-22)

a. If a resident of a Home is notified of transfer or discharge, the resident will be afforded an opportunity for a hearing. A resident of a Home must attempt to resolve the bases stated on the notice of action through verbal discussions with the Home Administrator or his designee prior to submission of a written request for a hearing. A resident will not be afforded an opportunity for a hearing based upon a voluntary transfer or discharge under Subsection 350.04 of these rules. (3-23-22)

b. If an application for residency in a Home is rejected, the applicant may request a hearing. (3-23-22)

03. Requesting a Hearing for Nursing Care. A request for a hearing from a nursing care resident for residency in a Home must be submitted to the Idaho Department of Health and Welfare, *Fair Hearing Office*, P.O. Box 83720, Boise, Idaho 83720-0036. Requests for appeal should be received by the Idaho Department of Health and Welfare before thirty (30) days have passed in order to stop the discharge or transfer before it occurs. (3-23-22) ()

04. Requesting a Hearing for Residential and Domiciliary Care. (3-23-22)

a. A request for a hearing from a resident for residential and domiciliary care residency in a Home must be submitted through the Home Administrator to the Division Administrator for possible resolution or the scheduling of a hearing. A resident's request must contain a description of what effort he has taken to satisfy the requirements of Paragraph 982.02.a. of these rules. (3-23-22)

b. A request for a hearing must be in writing and signed by the applicant/resident. (3-23-22)

c. A request for a hearing must be submitted within three (3) days of receipt of the written notice of action or denial. (3-23-22)

d. Pending a hearing, benefits will be continued or held in abeyance as follows: (3-23-22)

i. Benefits for domiciliary care, residential care, and nursing care residents will not be continued when the transfer or discharge is an emergency discharge under Subsection 350.01 of these rules or a discharge for unauthorized absences under Paragraph 350.02.g. of these rules. If the hearing request is made before the effective date of action and within three (3) days of receipt of the notice, no action will be taken by the Home Administrator on a general discharge under Subsection 350.02 of these rules, except Paragraph 350.02.g., or a transfer under Subsection 350.03 of these rules pending receipt of the final order. (3-23-22)

e. The Division Administrator will not accept a request for a hearing from a voluntary transfer or discharge pursuant to Subsection 350.04 of these rules. (3-23-22)

IDAPA 59 – PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
59.01.01 – RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)
DOCKET NO. 59-0101-2201
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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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 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 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 516-520](#).

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 21st day of November 2022.

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 September 21, 2022.

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

Section 59-1302(15) defines employer and directs compliance with the Internal Revenue Regulations. The regulations that PERSI followed were not finalized and are no longer valid, thus requiring the removal of paragraphs a., b. and c from IDAPA 59.01.01.004.13. The addition of school employees as a separate rate class under section 59-1322, Idaho Code, and the addition of the definition of school employee under section 59-1302(31A) requires a change to the definition of general member in IDAPA 59.01.01.004.17. The definitions of Normal Retirement Age, Permissive Service Credits, Police Officer and Teacher at 59.01.01.004.19, 22, 23 and 30 respectively do not need to be defined in IDAPA.

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

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 not conducted because negotiated rulemaking is not feasible because it would be inconsistent with the PERSI Board's exclusive fiduciary responsibility for plan operation.

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 the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this 6th day of July, 2022.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0101-2201

004. DEFINITIONS.

The definitions in Section 59-1302, Idaho Code, and the following apply to this chapter: (3-31-22)

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: (3-31-22)

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 (3-31-22)

b. Employees who are on leave of absence on the last day of the fiscal year and either: (3-31-22)

i. Return to active service for at least thirty (30) days before December 31 immediately following the end of the fiscal year; or (3-31-22)

ii. Are entitled to benefits under the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA). (3-31-22)

02. Actuary. This is the actuary retained by the Board. (3-31-22)

03. Administrator. The Board. (3-31-22)

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. (3-31-22)

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. (3-31-22)

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. (3-31-22)

07. Choice Plan or Account. This includes two (2) elements: (3-31-22)

a. The defined contribution component of the PERSI plan consisting of gain sharing allocations together with earnings thereon or the individual accounts therein; and (3-31-22)

b. The plan designated to receive voluntary and employer contributions as provided in Section 59-1308, Idaho Code, or the individual accounts therein. (3-31-22)

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. (3-31-22)

09. Compensation. “Compensation” as used in Section 59-1342(6), Idaho Code, means “salary” as defined by Section 59-1302(31), Idaho Code. (3-31-22)

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. (3-31-22)

11. Date of Retirement. “Date of retirement” means the effective date on which a retirement allowance becomes payable. (3-31-22)

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. (3-31-22)

13. Employer. ~~For purposes of compliance with federal tax law, an Employer, as defined in Section 59-1302(15), Idaho Code must also meet each of the requirements of Paragraphs a. through e. of this definition, taking into account all of the facts and circumstances.~~ 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. (3-31-22)

~~**a. Sovereign powers.** Pursuant to a state or local law of general application, the entity has a delegated right to exercise a substantial amount of at least one (1) of the following recognized sovereign powers of a state or local governmental unit: The power of taxation, the power of eminent domain, and police power. (3-31-22)~~

~~**b. Governmental purpose.** The entity serves a governmental purpose. The determination of whether an entity serves a governmental purpose is based on, among other things, whether the entity carries out the public purposes that are set forth in the entity's enabling legislation and whether the entity operates in a manner that provides a significant public benefit with no more than incidental private benefit. (3-31-22)~~

~~**c. Governmental control.** A state or local governmental unit exercises control over the entity. For this purpose, control is defined in Subparagraph 005.08.c.i. of this rule and a state or local governmental unit exercises such control only if the control is vested in persons described in Subparagraph 005.08.c.ii. of this rule. (3-31-22)~~

~~**i. Definition of control.** "Control" means an ongoing right or power to direct significant actions of the entity. Rights or powers may establish control either individually or in the aggregate. Among rights or powers that may establish control, an ongoing ability to exercise one or more of the following significant rights or powers, on a discretionary and non-ministerial basis, constitutes control: the right or power both to approve and to remove a majority of the governing body of the entity; the right or power to elect a majority of the governing body of the entity in periodic elections of reasonable frequency; or the right or power to approve or direct the significant uses of funds or assets of the entity in advance of that use. Procedures designed to ensure the integrity of the entity but not to direct significant actions of the entity are insufficient to constitute control of an entity. Examples of such procedures include requirements for submission of audited financial statements of the entity to a higher level state or local governmental unit, open meeting requirements, and conflicts of interest limitations. (3-31-22)~~

~~**ii. Control vested in a state or local governmental unit or an electorate.** Control is vested in persons described as a state or local governmental unit possessing a substantial amount of each of the sovereign powers and acting through its governing body or through its duly authorized elected or appointed officials in their official capacities or an electorate established under applicable state or local law of general application, provided the electorate is not a private faction. (3-31-22)~~

~~**iii. Definition of "private faction."** A private faction is any electorate if the outcome of the exercise of control described in Subparagraph 005.08.c.i. of this rule is determined solely by the votes of an unreasonably small number of private persons. The determination of whether a number of such private persons is unreasonably small depends on all of the facts and circumstances, including, without limitation, the entity's governmental purpose, the number of members in the electorate, the relationships of the members of the electorate to one another, the manner of apportionment of votes within the electorate, and the extent to which the members of the electorate adequately represent the interests of persons reasonably affected by the entity's actions. For purposes of this definition, an electorate is a private faction if any three (3) private persons that are members of the electorate possess, in the aggregate, a majority of the votes necessary to determine the outcome of the relevant exercise of control. Provided however, an electorate is not a private faction if the smallest number of private persons who can combine votes to establish a majority of the votes necessary to determine the outcome of the relevant exercise of control is greater than ten (10) persons. For example, if an electorate consists of twenty (20) private persons with equal, five percent (5%) shares of the total votes, that electorate is not a private faction because a minimum of eleven (11) members of that electorate is necessary to have a majority of the votes. By contrast, for example, if an electorate consists of twenty (20) private persons with unequal voting shares in which some combination of ten (10) or fewer members has a majority of the votes, then that electorate does not qualify for the safe harbor from treatment as a private faction~~

~~under this subparagraph. The following rules apply for purposes of determining numbers of voters and voting control in Subparagraph 005.08.c.iii. of this rule, related parties (as defined in 26 CFR Section 1.150-1(b)) are treated as a single person; and in computing the number of votes necessary to determine the outcome of the relevant exercise of control, all voters entitled to vote in an election are assumed to cast all votes to which they are entitled. (3-31-22)~~

14. 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. (3-31-22)

15. Firefighters' Retirement Fund. “Firefighters’ Retirement Fund” or “FRF” is the retirement fund provided by Chapter 14, Title 72, Idaho Code. (3-31-22)

16. 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. (3-31-22)

17. General Member. “General member” is a PERSI member not classified as a police officer, firefighter, ~~or~~ paid firefighter, or school employee. (3-31-22)()

18. Likely. For the purpose of Section 59-1302(12)(b), Idaho Code, “likely” means with reasonable medical certainty. (3-31-22)

~~**19. 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)~~

~~**20. 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. (3-31-22)~~

~~**20. 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: (3-31-22)~~

~~**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. (3-31-22)~~

~~**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. (3-31-22)~~

~~**c.** Normal Retirement Age. The member’s age at the time that the member is eligible to retire with an unreduced benefit. (3-31-22)~~

~~**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. (3-31-22)~~

~~**22.** Permissive Service Credits. This includes all credits obtained through voluntary purchase but does not include service obtained through repayment of a separation benefit under Section 59-1363, Idaho Code. (3-31-22)~~

~~**23.** Police Officer. “Police officer” means an employee who is serving in a position as defined in Section 59-1303, Idaho Code. (3-31-22)~~

~~**24. 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. (3-31-22)

~~25~~**22. 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. (3-31-22)

~~26~~**23. Required Beginning Date.** The date specified in Section 508.02 of these rules. (3-31-22)

~~27~~**24. 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. (3-31-22)

~~28~~**25. 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. (3-31-22)

~~29~~**26. Surviving Spouse.** “Surviving spouse” is a person as defined in Section 15-2-802, Idaho Code. (3-31-22)

~~30.~~ ~~Teacher.~~ “~~Teacher~~” is defined as a school employee who is required to be certified. (~~3-31-22~~)

~~31~~**27. 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. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

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. (3-31-22)

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. (3-31-22)

02. State Agencies. ~~The agencies of the state of Idaho shall be considered a single employer; a~~ **An** employee working for more than one (1) state agency establishes eligibility based on the total hours of employment worked with all state agencies. (~~3-31-22~~)()