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**IDAPA 59
TITLE 01
Chapter 04**

**59.01.04 - DISABILITY RULES FOR THE PUBLIC EMPLOYEE
RETIREMENT SYSTEM OF IDAHO (PERSI)**

**Subchapter A -- General Provisions
(Rules 0 through 25 -- General Provisions)**

000. LEGAL AUTHORITY (Rule 0).

All PERSI rules are adopted under the legal authority of Sections 50-1507, 50-1508, 50-1524, 59-1301, 59-1305, 59-1314, 59-1372, 59-1383, 59-1392, 72-1405, and 72-1406, Idaho Code. (1-1-94)

001. TITLE AND SCOPE (Rule 1).

The title of this chapter is PERSI Disability Rules. (1-1-94)

002. WRITTEN INTERPRETATIONS--AGENCY GUIDELINES (Rule 2).

Written interpretations of these rules, to the extent they exist, are available from PERSI, at the following locations:

PERSI Boise Office
607 North Eighth Street
Boise, Idaho 83702
Phone: 208/334-3365 or 1-800-451-8228
Fax: 208/ 334-4026

PERSI Pocatello Office
850 E. Center, Suite D
Pocatello, Idaho 83201
Phone: 208/236-6225 or 1-800-762-8228
Fax: 208/236-6159

PERSI Coeur d'Alene Office
2005 Ironwood Parkway, Suite 142
Coeur d'Alene, Idaho 83814
Phone: 208/769-1474 or 1-800-962-8228
Fax: 208/769-1476 (5-6-94)

003. ADMINISTRATIVE APPEAL (Rule 3).

Administrative appeals are conducted pursuant to PERSI Rules of Administrative Procedure, Chapter 01, Rules 101 through 104 and 150 through 789. (1-1-94)

004. PUBLIC RECORDS ACT COMPLIANCE (Rule 4).

All rules required to be adopted by this chapter are public records. (1-1-94)

005. DEFINITIONS (Rule 5).

PERSI adopts through incorporation by reference as if set forth fully herein all of the definitions listed in Eligibility Rules of the Public Employee Retirement System of Idaho, Chapter 02, Rule 5. (1-1-94)

006. CITATION (Rule 6).

The official citation of this chapter is IDAPA 59.01.04.000, et seq. For example, this section's citation is IDAPA 59.01.04.006. In documents submitted to PERSI or issued by PERSI these rules may be cited as PERSI Disability Rule and action number less leading zeros. For example, this rule may be cited as PERSI Disability Rule 6. (1-1-94)

007. EFFECTIVE DATE (Rule 7).

Unless otherwise indicated in the bracketed material following each Rule, the effective date of every Rule in this chapter is January 1, 1994. (1-1-94)

008. -- 099. (RESERVED).

Subchapter B--General Members
Rule 100 through 250--Eligibility

100. DETERMINING WORKER'S COMPENSATION OFFSET (Rule 100).

To determine the offset required by Section 59-1353, Idaho Code, the annual amount payable under the provisions of any worker's compensation law which represents income benefits as defined in Section 72-102, Idaho Code, shall be converted to a monthly equivalent and deducted from the monthly retirement allowance. Statutory References: Cross Reference: (1-1-94)

101. UNUSED SICK LEAVE NOT SALARY IN DETERMINING DISABILITY RETIREMENT (Rule 101).

Unused sick leave entitlement provided for by either Section 33-1228, 33-2109A, or 67-5339, Idaho Code, shall not be considered salary or compensation in the application of Section 59-1354(1), Idaho Code. Statutory References: Cross References: (1-1-94)

102. -- 250. (RESERVED).

Subchapter C--Class II Members
Rule 251 through 299--Eligibility

251. -- 299. (RESERVED).

Subchapter D--FRF Members
Rule 300 through 399--Eligibility

300. VOLUNTARY RETIREMENT FOR DISABILITY RETIRED FIREFIGHTER (Rule 300).

A paid firefighter with disability retirement pursuant to Title 72, Chapter 14, Idaho Code, who is or becomes eligible for voluntary retirement pursuant to Title 72, Chapter 14, Idaho Code, may apply for and be granted voluntary retirement. Statutory References: Cross References: (1-1-94)

301. DETERMINING WORKER'S COMPENSATION OFFSET--FRF (Rule 301).

The worker's compensation award offset required by Section 72-1447, Idaho Code, shall be made in the manner prescribed by Section 59-1353, Idaho Code. To determine the offset required by Section 72-1447, Idaho Code, the annual amount payable under the provisions of any worker's compensation law which represents income benefits as defined in Section 72-102, Idaho Code, shall be converted to a monthly equivalent and deducted from the monthly retirement allowance. Statutory References: Cross Reference: (1-1-94)

302. -- 399. (RESERVED).

Subchapter E--Disability Retirement
Rule 400 through 599--General Members

400. LUMP SUM SALARY PAYMENT--DISABILITY RETIREMENT (Rule 400).

A lump sum salary payment in excess of the usual compensation pattern made by the employer to a member approved for disability retirement shall be considered as an advance of regular salary payments for the purposes of Section 59-1354(1), Idaho Code. Contributions shall be made on such lump sum salary payments to accumulate membership service in proportion to the relation of the lump sum salary payment to the member's usual compensation pattern. For example, if the disability retired member's usual compensation pattern has been at the rate of one thousand five hundred dollars (\$1,500) per month and he/she receives a final lump sum salary payment of four thousand five hundred dollars (\$4,500) for the month of December, the member receives membership service credit for the months of December, January and February. Disability service credit accumulation will then commence beginning with the

month of March as provided by Section 59-1302(12A), Idaho Code. In the example, the months of December, January and February will then be included in the salary base period as may be consistent with the provisions of Section 59-1302(5A), Idaho Code. Statutory References: Sections 33-1228, 33-2109A, 59-1302(5A), 59-1352, 59-1353, 59-1354, 67-5339, and 72-1447, Idaho Code. Cross References: (1-1-94)

401. DISABILITY RETIREMENT ELIGIBILITY (Rule 401).

For the purposes of Sections 59-1352 and 59-1354(1), Idaho Code, eligibility for disability retirement shall be the date selected by the member. However, in no event shall this date be: earlier than the date on which the member is unable to and thereafter does not return to work on a regular basis for two (2) consecutive weeks, or later than the date on which the member ceases to accrue membership credit. Statutory References: Sections 33-1228, 33-2109A, 59-1302(5A), 59-1352, 59-1353, 59-1354, 67-5339, and 72-1447, Idaho Code. Cross References: (1-1-94)

402. DEFINITION OF "BECOMES DISABLED" (Rule 402).

For the purposes of Section 59-1352, Idaho Code, "becomes disabled" means the eligibility date approved by the board based on medical evidence submitted to the board. Statutory References: Sections 33-1228, 33-2109A, 59-1302(5A), 59-1352, 59-1353, 59-1354, 67-5339, and 72-1447, Idaho Code. Cross References: (1-1-94)

403. DEFINITION OF "LIKELY" (Rule 403).

For the purpose of 59-1302(12)(b), Idaho Code, "likely" means with reasonable medical certainty. Statutory Reference: Section 59-1302. Cross Reference: Sections 59-1352, 59-1353, 59-1354. (7-1-94)

404. -- 999. (RESERVED).