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**IDAPA 28 - PERSONNEL COMMISSION**

**28.01.01 - RULES OF THE IDAHO PERSONNEL COMMISSION**

**000. LEGAL AUTHORITY.**

The rules of the Idaho Personnel Commission are adopted pursuant to Section 67-5309, Idaho Code. The Idaho Personnel Commission shall perform such duties and exercise such authority as has been or may be conferred upon it by law. It shall determine the policies of the Idaho Personnel System and make such rules as are necessary for the administration of the Personnel System. It shall appoint a state personnel director as provided by Section 67-5308, Idaho Code. (7-1-93)

**001. -- 002. (RESERVED).**

**003. CITATION OF RULES.**

The official citation of the Personnel Commission's rules is, for example, IDAPA 28.01.01.072.01. An informal reference may be made to "Rule 072.01." (7-1-93)

**004. ADDRESS AND PHONE NUMBERS OF THE IDAHO PERSONNEL COMMISSION.**

The offices of the Idaho Personnel Commission are located at 700 West State Street, Boise, Idaho 83720-2700. The phone number of the Commission is (208) 334-2263. Additional phone numbers are: a job announcement recording at (208) 334-2568; a toll-free number, 1-800-554-JOBS (5627); a toll-free TDD or telecommunications device for the deaf, 1-800-542-5738. The Commission's FAX number is (208) 334-3182. (7-1-93)

**005. FILING OF DOCUMENTS.**

In appeals under Section 67-5316, Idaho Code, parties shall file documents with the hearing officer. Petitions for or comments on proposed rules shall be filed with the state personnel director or a person designated in the notice of rulemaking, at the address listed above. In petitions for review pursuant to Section 67-5317, Idaho Code, an original and five copies of documents shall be filed at the Commission's office. Whenever documents are filed by facsimile transmission (FAX), originals shall be deposited in the mail the same day or hand delivered the following business day to the hearing officer or the Commission, and opposing parties. (7-1-93)

**006. WAIVER OF RULES.**

The Idaho Personnel Commission reserves the right to waive any rule in specific instances when, in its opinion, such waivers are legal, warranted and justified in the interests of a more effective and responsive system of personnel administration. (7-1-87)

**007. DESIGNATION OF OFFICERS.**

At its first meeting each calendar year, the Personnel Commission shall designate a chairman and vice-chairman for the ensuing year. (4-5-85)

**008. DESIGNATION OF MEETINGS.**

The Personnel Commission shall meet at the Commission offices at 9:00 a.m. on the Friday closest to the 15th day of each month except the months of July and December. Additional meetings may be called by the chairman. Additional meetings shall be called by the chairman upon the written request of three (3) members. The chairman or the state personnel director may schedule meetings in different locations, and cancel or reschedule meetings for lack of a quorum, lack of sufficient business, or any other good cause. (12-10-90)

**009. DUTIES OF THE STATE PERSONNEL DIRECTOR.**

The state personnel director shall serve as executive secretary and administrative officer of the Personnel Commission, shall have custody of the books and records of the Commission, and shall maintain a record of the proceedings before the Commission and its hearing officers. (4-5-85)

**010. DEFINITIONS.**

Each of the terms defined in these rules shall 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. (7-1-87)

01. Allocation. The assignment of a class to a pay grade in the compensation schedule. (8-1-81)
02. Appeal. Any written request for relief from dismissal, demotion, suspension, or other adverse action filed with the Idaho Personnel Commission by an employee, appointing authority, or applicant. The meaning of appeal includes application, petition, or protest. (4-5-85)
03. Appellant. An employee, appointing authority, or applicant filing an appeal or a petition for review with the Idaho Personnel Commission. (7-1-87)
04. Appointment, Limited. The appointment of a person to a classified, non-career position for which the person has qualified by examination. (4-5-85)
05. Appointment, Nonclassified. The appointment of a person to a position exempt from the application of these rules by the provisions of Section 67-5303, Idaho Code. (7-1-87)
06. Appointment, Original or Initial. The first appointment of a person to any classified position in state service. (4-5-85)
07. 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 Chapter 53, Title 67, Idaho Code, and the rules of the Idaho Personnel Commission. (7-1-87)
08. 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. (4-5-85)
09. 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. (7-1-87)
10. Appointment, Provisional. The appointment of a person to a position in classified service for which the person has not qualified by examination pending the establishment of a register for the class of such position. (4-5-85)
11. Appointment, Temporary. The appointment of a person to a nonclassified position which is not permanent in nature, and in which hours worked will not exceed one thousand three hundred eighty-five (1,385) during any twelve (12) month period for any one (1) department. (7-1-87)
12. Certifiable Range. An examination score and a rank on an eligibility register sufficiently high to be among the top five (5) available names, plus names of all individuals with scores identical to the fifth ranking eligible, for certification to fill a position in the class for which the register was established. (4-5-85)
13. Class Specification. A written statement of the purpose and responsibilities characteristic of a class, which includes the title, principal accountabilities, and minimum qualifications of education, training and experience, abilities, knowledge, skill, and other qualifications required to perform the work of the class. (7-1-87)
14. Classification Schedule. All class specifications utilized in classified service listed by title, class code, and pay grade to which allocated. (4-5-85)
15. Classified Service. That body of positions in state departments subject to Chapter 53, Title 67, Idaho Code, as defined therein and excludes temporary, project exempt, and nonclassified appointments. (7-1-87)
16. 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; Idaho Personnel Commission rules and policies; and departmental policies governing employee pay. (7-1-87)

17. Compensation Schedule. The pay grades established by Section 67-5309C, Idaho Code, and associated rates of pay established in Rule 070.06. (7-1-94)
18. Consultant. An independent contractor who provides professional or technical advice, counsel, or service on a set fee basis. (Ref. Rule 010.30). (7-1-87)
19. Demotion. The reduction of an employee from a position which the employee occupies in one (1) class to a position in another class with a lower entrance salary. Demotion does not include returning an employee to a class in which the employee has permanent status for failure to complete the probationary period. (Ref. Rule 150.04) (7-1-87)
20. Departmental Class. A class of positions that is unique to a department. (7-1-87)
21. Dismissal. The separation of an employee from classified service with cause assigned by the appointing authority pursuant to Rule 190. (7-1-87)
22. Employee. Any person in the employ of a state department who is paid a salary or wages. (4-5-85)
23. Employment History. The information available to the public without the employee's consent in accordance with Idaho Code Section 9-340(36), for every agency for which a current or former public official works, including the official reason(s) for separation from employment but not including accrued leave balances or usage. (12-10-90)
24. Examination. The application of written tests, oral interviews, performance tests, investigation, physical evaluation, evaluation of education and experience, or any other measure of job-related knowledge and ability, including performance in probationary periods. (4-5-85)
25. Factoring. The assignment of Hay evaluation points to a classification in accordance with Section 67-5309B and Rule 074. (7-1-87)
26. General Class. A class of positions that is common to more than one participating department. (7-1-87)
27. Good Cause. The conduct of a reasonable person in the same or similar circumstances. (7-1-87)
28. Hours Worked: (7-1-87)
- a. Those hours actually spent in the performance of the employee's job, excluding holidays, vacation, sick leave or other approved leaves of absence, and excluding on-call time; (Ref. Rule 010.40) (7-1-87)
- b. All travel time actually performed by an employee when authorized by the appointing authority or designee; (5-15-85)
- c. Attendance at lectures, meetings, training programs and similar activities outside of the employee's regular working hours when attendance has been directed by the appointing authority or designee. (5-15-85)
29. Incumbent. Any person holding a classified or non-classified position in state service. (7-1-87)
30. Independent Contractor. Any person, firm, or corporation meeting the Social Security Administration's test for an independent contractor or a self-employed person. (Ref. Rule 010.18) (7-1-87)
31. Interested Person. A person or department directly affected by a rule, statute or department action or inaction. (6-30-78)
32. Intoxication. Being under the influence of alcohol or controlled substances. (Ref. Rule 190.01.f.) (7-10-88)

33. 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. (4-5-85)
34. Leave of Absence With Pay. A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee shall be compensated. Leaves of absence with pay have no adverse effect on the status and credited state service of the employee and include the following leaves: vacation leave, sick leave, special leave situations, and compensatory time off for overtime worked. (7-1-87)
35. Leave of Absence Without Pay. A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee shall not be compensated. (7-1-87)
36. Merit Increase. The advancement of an employee's compensation in accordance with Section 67-5309C(c), Idaho Code. (7-1-87)
37. Minimum Qualification Specialty. A minimum qualification required for one or more positions in a class that is in addition to the other minimum qualifications required for all positions in the class. (7-1-93)
38. New Class. A classification that is not essentially described by any existing job classification. (7-1-94)
39. 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. (7-1-87)
40. On-Call Time. Time when an employee is required to wear a pager or similar device, or to leave work at home or with the department where the employee may be reached if needed to work, and the employee can use the time effectively for personal purposes. (6-11-89)
41. Overtime. Those hours defined as such in Section 67-5302(18), Idaho Code, excluding any time, such as traded time and occasional or sporadic work, that is specifically excluded from the overtime calculation by federal law. (7-1-87)
42. Pay Line Exception. A temporary allocation of pay grade, pursuant to Section 67-5309C(b)(i), Idaho Code, in excess of the pay grade allocated pursuant to Section 67-5309B(a), Idaho Code, as approved by the Idaho Personnel Commission (6-18-95)
43. Position, Classified. A position subject to Chapter 53, Title 67, Idaho Code, and these rules in which one (1) person is hired as a full-time or part-time employee; or in which two (2) or more persons share in the aggregate of the position. (7-1-87)
44. Promotion. The advancement through the competitive process of an employee with permanent status from a position which he or she occupies in one (1) class to a position in another class having a higher entrance salary. (4-5-85)
45. Rating. The number of Hay evaluation points assigned to a classification in accordance with Rule 074. (7-1-87)
46. Reallocation. A change of a class from the pay grade to which it is allocated in the compensation schedule to another pay grade of either higher or lower entrance salary. (11-1-75)
47. Reasonable Accommodation. A logical adjustment made to a job and/or work environment that enables a qualified handicapped employee to perform the essential functions of the position and would not cause undue hardship on the operation of the department. (Ref. Rule 190.01.c.) (7-1-87)
48. Reclassification of a Position. A change of a position from the class to which it is assigned to



another class. Reclassification of an employee means a change in the classification assigned to the employee to properly reflect the duties and responsibilities assigned to that employee by an appointing authority. (4-5-85)

49. 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 class is allocated. (7-1-94)

50. 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 class on the basis of examination and merit factors as established by the Idaho Personnel Commission. An adequate register lists at least five (5) names of eligible candidates currently available for consideration for each vacancy in the class for which the register was established. (4-5-85)

51. Reinstatement. The reappointment of a former or current classified employee pursuant to Rule 125. (7-1-87)

52. Relief Shift Employee. An employee whose regular assignment is to work during the absences of others. (Ref. Rule 075.01.b.) (12-10-90)

53. Resignation. The voluntary quitting of state employment, excluding retirement. (6-11-89)

54. Respondent. The party whose interests are adverse to those of the appellant. (7-1-93)

55. Status. The character of an employee's appointment. (7-1-77)

56. 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. (7-1-87)

57. Termination. The separation of an entrance probationary employee from classified service for unsatisfactory service during the probationary period without cause assigned by the appointing authority pursuant to Rule 150. (7-1-87)

58. Traded Time. Those hours an employee agrees to substitute for another employee during scheduled hours of work, where both work in the same capacity, the agreement to substitute is solely at the employees' option, and the agreement is approved by the agency by whatever manner is customary. (7-1-87)

59. Transfer. A change of work location of an employee in which the employee changes from one (1) position to another in the same class or to another class in the same pay grade. (4-5-85)

60. Underfill. The filling of a class of position with an employee in a class of lower pay grade to accommodate a training period as approved by the state personnel director. (4-5-85)

61. Workweek. A period of seven (7) consecutive days beginning 12:01 a.m. Sunday. (Ref. Rule 073). (12-10-90)

**011. -- 019. (RESERVED).**

**020. BASIC MERIT REQUIREMENTS OF THE PERSONNEL SYSTEM.**

All appointments and promotions to positions in the state classified service and all measures for the control and regulation of employment of such positions, and separations therefrom, shall be based solely on merit, efficiency, and fitness. (8-1-81)

**021. DISCRIMINATION PROHIBITED.**

No person shall be disqualified from taking an examination, from appointment to a position, from promotion, or from holding a position in the classified service because of race or national origin, color, sex, age, political or religious opinion or affiliation, handicap, or for being a disabled or Vietnam era veteran, or other non-merit factor; nor shall any person be separated, demoted, or transferred from any position in classified service or otherwise discriminated against in compensation, terms, conditions, or privileges of employment for any of these reasons. In determining whether discrimination has taken place, reference will be made to the appropriate federal and state statutes,

regulations, and executive orders. (4-5-85)

**022. PROHIBITED QUESTIONS.**

No question in any form on the application or in any examination shall be so framed as to elicit information concerning political or religious opinions or affiliations of any applicant, nor shall inquiry be made concerning such opinions or affiliation, and all disclosures thereof shall be disregarded. (2-1-67)

**023. AGE AND SEX REQUIREMENTS.**

Specific age or sex requirements for certain classes may be established by the Idaho Personnel Commission when such requirements represent bona fide occupational qualifications. (8-1-81)

**024. CONFLICT OF INTEREST AND PERSONAL CONDUCT.**

The maintenance of a high standard of honesty, impartiality, and conduct by state employees is essential to insure proper performance of state business and strengthen the faith and confidence of the people of Idaho in the integrity of state government and state employees. The appointing authority of any department may establish such policies and standards necessary to prevent conflicts of interest. (4-5-85)

**025. DUAL EMPLOYMENT.**

There shall be no conflicting hours of work when a classified employee is employed by more than one (1) state department. The employee shall obtain approval from all appointing authorities concerned prior to beginning dual employment. (4-5-85)

**026. NEPOTISM.**

No employee shall work under the immediate supervision of a supervisor who is a spouse, child, parent, brother, sister or the same relation by marriage. (8-1-81)

**027. -- 039. (RESERVED).**

**040. NONCLASSIFIED EMPLOYEES SUBJECT TO CLASSIFIED SERVICE SUBSEQUENT TO APRIL 5, 1988.**

The provisions of this rule shall apply to all employees exempt from classified service who, subsequent to April 5, 1985, become subject to the provisions of Chapter 53, Title 67, Idaho Code, by legislation or executive order of the Governor. (7-1-87)

**041. PROBATIONARY PERIOD.**

A nonclassified employee brought under classified service under Rule 040 must serve a probationary period appropriate for the class assigned to the employee's position. Service uninterrupted by resignation, termination, or dismissal immediately prior to inclusion in classified service shall be considered as probationary service. (7-1-87)

**042. CERTIFICATION TO PERMANENT STATUS.**

An employee who has completed a probationary period as required above and who is certified in writing by the appointing authority as serving satisfactorily shall be certified to permanent status without examination. (8-1-81)

**043. EXAMINATION.**

An employee who has not completed a probationary period as required above shall be required to pass an examination for the class assigned to the employee's position. Prior to passing such examination, the employee's status shall be provisional. (4-5-85)

**044. SEPARATION.**

An employee who is not certified by the appointing authority as serving satisfactorily shall be separated from state service no later than thirty (30) calendar days after inclusion in classified service. An employee who fails to pass the examination or had an opportunity to have such examination and not availed himself or herself thereof shall be separated no later than thirty (30) calendar days after the establishment of an adequate register of eligibles. (4-5-85)

**045. SALARY.**

The salary of an employee, under these rules, shall be adjusted to the pay rate in the pay grade allocated to the employee's class that represents no salary loss from the employee's base rate in nonclassified status. (7-1-94)

**046. SALARY PROTECTION.**

If the salary of an employee, brought under classified service under Rule 040, is greater than the highest rate of the pay grade of the class to which assigned, the employee's salary shall not be reduced; but he or she shall thereafter receive no salary increase, except for bonuses provided under Section 67-5309C, Idaho Code. (7-1-94)

**047. -- 049. (RESERVED).**

**050. CONSULTANTS AND PERSONS EMPLOYED UNDER INDEPENDENT CONTRACT.**

Nothing in these rules shall prohibit the use of independent contractors or consultants who are paid on a fee basis for legal, medical, or other professional services, provided that they are not engaged in the performance of administrative duties for any state department. (7-1-94)

**051. LIMITATIONS.**

01. No Fee Basis. No position in the state classified service shall be filled by a consultant or independent contractor on a fee basis. (8-1-81)

02. Emergency Situations Only. Individuals employed through contracts with temporary services shall be hired only for short-term, emergency situations. (7-1-87)

**052. -- 059. (RESERVED).**

**060. CLASSIFICATION SCHEDULE.**

Adoption of Compensation Schedule. The Idaho Personnel Commission, after consulting with each appointing authority, shall develop, adopt, and make effective a classification schedule consisting of class specifications allocated to various pay grades in the compensation schedule for all positions based on an analysis of the duties and responsibilities of representative positions. (4-5-85)

**061. ANALYSIS OF CLASSIFICATIONS.**

The state personnel director shall assist appointing authorities in the analysis of positions in determining proper classification and shall, at the determination of the Personnel Commission, conduct independent classification reviews of the various departments. (4-5-85)

**062. AUTHORITY.**

The state personnel director shall have the responsibility and sole authority to classify positions in the classification schedule. (7-10-88)

**063. REVIEW OF CLASSIFICATION SCHEDULE.**

The Personnel Commission in cooperation with the various appointing authorities shall review the classification schedule to insure the appropriateness and accuracy of existing class specifications. (7-1-93)

**064. AMENDMENT OF CLASSIFICATION SCHEDULE.**

01. Changes to Classifications. Whenever it is necessary to establish or delete a position or to revise a position's responsibilities, the appointing authority shall submit proposed changes to the state personnel director. (4-5-85)

02. Approval. Each appointing authority, prior to establishing any new position within the department, shall obtain the approval of the state personnel director for the classification of such positions and their allocation to a pay grade in the compensation schedule. Approval by the budget administrator for sufficiency of funds is also required. (11-1-75)

03. Allocation to Pay Grade Required. No person shall be appointed to, employed in, or paid for services in any classified position until the position has been established, classified, and allocated to a pay grade in accordance with these rules. (7-1-87)

**065. APPROVAL OF NEW, REVISED AND DELETED CLASSIFICATIONS.**

01. New and Refactored Classifications. New classifications of work and revised classes shall be submitted by the state personnel director to the Personnel Commission for approval, and to the budget administrator for approval when there is a fiscal impact. (7-1-94)

02. Revised and Deleted Classifications. Revised classifications with no fiscal impact and classes deleted from the classification schedule require approval only of the state personnel director. (7-1-94)

**066. ABOLISHMENT OF POSITIONS.**

An appointing authority may abolish a position for reasons of administrative efficiency. Employees to be separated as a result shall have layoff and reemployment preference in accordance with Rules 140 through 147. (7-1-87)

**067. RECLASSIFICATION OF POSITIONS.**

01. Procedure. Positions may be reclassified in the same pay grade, upward, or downward as determined by an analysis by Personnel Commission staff of the duties and responsibilities assigned by appointing authorities to specific positions. An incumbent occupying a reclassified position shall be properly classified by an appointing authority within thirty (30) calendar days of being notified by the state personnel director that the duties and responsibilities assigned to the position are not properly classified. (4-5-85)

02. Effective Date. Reclassifications of positions shall not be effective until they are approved by the state personnel director. Reclassification of an employee shall not precede the effective date of the reclassification of the position. (8-1-81)

03. Violations. Upon a determination of the state personnel director that an incumbent employee is improperly classified, the state personnel director shall notify the employee, the appointing authority, and the state auditor's office that the employee is being compensated in violation of these rules. (Ref. Section 67-5312, Idaho Code). (7-1-87)

**068. -- 069. (RESERVED).**

**070. COMPENSATION OF EMPLOYEES.**

01. Conduct of Salary Surveys. The Personnel Commission shall conduct or approve salary surveys, to determine salary ranges that represent competitive labor market average rates for all positions in the classified service. The state personnel director shall report to the Personnel Commission the findings and recommendations on salary rate changes that result from such surveys. (7-1-94)

02. Relevant Labor Markets for Classifications up to Two Hundred and Seventy (270) Points. For classifications up to two hundred and seventy (270) points, the comparator market shall consist of the Idaho in-state market, representing private and public employers in the state. (7-1-94)

03. Relevant Labor Markets for Classifications from Two Hundred Seventy One (271) to Five Hundred Fifty (550) Points. For classifications from two hundred seventy one (271) to five hundred fifty (550) points, the comparator market shall be the Idaho in-state market, representing private and public employers, and a group of nine Western State governments, consisting of Arizona, Colorado, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming. (7-1-94)

04. Relevant Labor Markets for Classifications above Five Hundred Fifty (550) Points. For classifications above five hundred fifty (550) points, the comparator market is the nine Western State governments identified in Subsection 070.03 above. (7-1-94)

05. Salary Survey Benchmark Classes. The classifications used in the Commission's salary surveys shall be adopted by the Commission in a public meeting after notice, and a current list shall be provided to all appointing authorities. (7-1-97)

06. Salary Schedule. The Commission shall adopt the salary ranges for the pay grades in Section 67-5309C, Idaho Code, which represent eighty-five percent (85%) to one hundred and twenty-five percent (125%) of the payline policy formulas in Section 67-5309B, in a public meeting after notice, and a current salary schedule shall be provided to all appointing authorities. (7-1-97)

**071. COMPENSATION PLAN REVIEWS.**

01. Review of Compensation Schedule. The Personnel Commission in cooperation with the various appointing authorities conduct reviews of the compensation plan and the Personnel Commission's policies and procedures. The state personnel director shall report to the Personnel Commission the findings and recommendations for amendment made as a result of such reviews. (7-1-93)

02. Affirmation of Factoring. In the review of classifications, the factoring of a class may be affirmed if there has been no significant change in the duties of the classification and the factoring appears to be correct. (7-1-93)

**072. OPERATION OF COMPENSATION PLAN.**

01. Authorized Pay Rate. No employee in the state classified service shall be paid at a rate less than the minimum nor greater than the maximum rate of the pay grade assigned to the class, except as provided in Rules 046, 072.07, and Section 67-5309C(a)(i), Idaho Code. (7-1-97)T

02. Entrance Salary. The entrance salary for a new appointee shall be the minimum rate of the pay grade allocated to the employee's class except when necessary to hire a particularly qualified individual. (Ref. Section 67-5309C(a)(i), Idaho Code). (7-1-97)T

03. Salary After Reappointment from Layoff. An employee appointed from a layoff register (Rules 101.01 and 145) shall be paid at the current pay grade for the classification to which reappointed and at the same payrate he or she received immediately preceding layoff. (7-1-94)

04. Salary Upon Transfer. (7-10-88)

a. A transfer between departments (Rule 126) in the same class or one of equal pay grade shall have no effect on the employee's salary unless a lower rate is negotiated between the employee and the appointing authority. (7-1-94)

b. If the transfer is to a class of lower pay grade (demotion), the employee's salary is negotiable between the employee and appointing authority up to the employee's current salary immediately preceding transfer not to exceed the maximum rate for the lower pay grade. (7-1-94)

c. When necessary to transfer a particularly qualified individual, the appointing authority may make the transfer at a higher pay rate within the assigned pay grade. (7-1-94)

05. Salary Upon Reinstatement. (7-10-88)

a. Except as otherwise provided in the following rule, the salary of a reinstated employee (Rule 125) is negotiable between the employee and appointing authority in the current pay grade for the class in which the employee has reinstatement privileges up to the pay rate the employee last received while in that class. The negotiated amount cannot exceed the maximum rate of the pay grade for the class to which the employee is reinstated. If reinstatement would cause a current employee to lose salary, his or her salary may be protected to its current level not to exceed the maximum pay rate of the assigned pay grade. (7-1-94)

b. When necessary to reinstate a particularly qualified individual, the appointing authority may make the reinstatement at a higher pay rate within the assigned pay grade. (7-1-94)

06. Salary Upon Upward Reallocation. When a class is reallocated upward, employees shall receive their current hourly rates or the lowest rate of their assigned pay grade, whichever is greater. (7-1-94)

07. Salary Upon Downward Reallocation. When a class is reallocated downward the employee's salary shall be protected and shall be "frozen" above the highest rate of the pay grade to which the classification is assigned, if necessary. (7-1-94)

08. Salary Upon Return from Military Duty. An employee who returns to state service from active military duty in accordance with the provisions of Sections 65-511 or 65-512, Idaho Code, shall be paid at the same rate in the current pay grade for the classification to which he or she was assigned prior to leaving for military service. (7-1-94)

**073. CALCULATION OF PAY.**

01. Standard Calculation of Pay. For other than police or fire employees, pay shall be calculated in the following order: (12-10-90)

- a. Holiday pay; (12-10-90)
- b. All hours worked on a holiday as overtime; (12-10-90)
- c. All hours worked over forty (40) in the workweek as overtime, excluding occasional or sporadic work and traded time; (12-10-90)
- d. Vacation, sick and other paid or unpaid leaves; and (12-10-90)
- e. All remaining hours worked at the employee's regular rate of pay, with the optional use of earned administrative leave. Shift differential pay shall be calculated according to Rule 075 and paid in addition to any other compensation. (Ref. Sections 67-5302(18), 67-5329, Idaho Code; Rules 010.39 -- 010.41, 010.58, 073.03 and 250). (12-10-90)

02. Calculation of Pay for Police and Fire Employees. Police and fire employees on a twenty eight (28) day work schedule shall be compensated as described above, except that overtime shall be calculated based on one hundred sixty (160) hours in a twenty eight (28) day period instead of 40 hours in a workweek, and earned administrative leave shall be calculated based on eighty (80) hours in a biweekly pay period instead of on a weekly basis. (7-1-87)

03. Holiday Pay Calculation. (7-1-87)

a. A full-time employee shall 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 shall receive eight (8) hours of holiday pay. (7-1-87)

b. A part-time employee who has a regular work schedule shall be paid for a holiday: 1) in the same proportion to eight (8) hours that the hours the employee normally works in a week bear to forty (40), which for calculation purposes converts to two tenths (.20) x hours normally worked; or 2) to the extent the employee would have worked had the holiday been a regular workday. The use of method 1) or 2) is discretionary with the appointing authority. (7-1-87)

c. If a part-time employee's hourly schedule is so irregular that a normal workweek cannot be determined, an appointing authority may substitute the following method for 1) above: in the same proportion that the hours the employee works during a week in which a holiday occurs bear to forty (40). (4-5-85)

04. Reduction of Salary. The salary of an employee receiving more than the lowest rate of the pay grade for his or her class may be reduced to a lower rate by the appointing authority for disciplinary reasons enumerated in Rule 190. (7-1-94)

05. Temporary Merit Increases. Temporary merit increases shall not be calculated retroactively. (Ref. Section 67-5309C(c)(ii), Idaho Code). (7-10-88)

06. Department Salary Administration Policies. Each department shall adopt and file with the Personnel Commission salary administration policies for the following actions to insure fairness and equity for all employees within that department: (8-1-81)

- a. Merit increases and bonuses (Section 67-5309C(c), Idaho Code, and Rule 073.05.); (7-1-94)
- b. Reclassification (Rule 067); (4-5-85)
- c. Demotions (Rule 180); (4-5-85)
- d. Intradepartmental transfers (Rule 126); (4-5-85)
- e. Failure to complete promotional probationary periods (Rule 152.03.); (4-5-85)
- f. Promotions (Rule 170); (7-1-87)
- g. On-call time (Rule 010.40). (7-1-87)

07. Salaries for Temporary Appointments. Except as provided by the following rule, salaries for employees hired under temporary and project-exempt appointments will be governed by Section 59-1603, Idaho Code. (4-5-85)

**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 class is allocated shall be determined by the number of Hay evaluation points assigned to each class. (7-1-94)

02. Guide Charts. The Hay evaluation points assigned to a class shall be the composite numerical value of points factored from the Hay guide charts. The Commission shall adopt the Hay guide charts in an open meeting after notice. (7-1-97)

03. Factoring Benchmarks. The correlated factoring benchmarks shall be used in conjunction with the Hay Guide charts to determine the number of points assigned to a classification. The Commission shall adopt the correlated factoring benchmarks in an open meeting after notice. (7-1-97)

04. Factoring Session. The Personnel Commission staff shall schedule a factoring session in which the appropriate department representative(s) may present to a factoring committee both oral and written testimony concerning the class to be factored. The testimony shall describe the principal duties of the position as described in the class specification and may include a recommendation of the number of Hay evaluation points to be assigned. (7-1-87)

05. Membership of Factoring Team. The state personnel director or designee shall determine the membership of a factoring committee, which may include Commission staff and department personnel staff who are knowledgeable of the Hay system. (7-1-87)

06. Factoring Process. The factoring committee shall assign Hay evaluation points in accordance with Rule 074, taking into account the testimony given to the factoring committee, comparisons of the class with similar positions in the department(s), and the position of the class within the organization. The state personnel director or the Commission staff shall notify the department(s) in writing of the decision of the factoring committee, with a summary of the reasons for the assigned rating if a recommendation of the department representative(s) is not accepted. (7-1-87)

07. Issue Conference. An appointing authority who desires to protest a rating shall request an issue conference with the factoring committee, and present reasons why the assigned rating is in error. The factoring committee may affirm or modify the rating. The state personnel director or Commission staff will provide a letter to

the appointing authority stating the outcome of the issue conference and the basis for the committee's rating. (7-1-87)

08. Finality of Rating. The rating of the factoring committee shall be final unless appealed in accordance with Section 67-5316, Idaho Code. (7-1-87)

**075. SHIFT DIFFERENTIAL.**

01. Eligibility. (12-10-90)

a. Shift differential compensation shall be paid if fifty percent (50%) or more of an employee's assigned hours in a workweek occur between 6:00 p.m. and 7:00 a.m. Leave hours taken shall be regarded as having been assigned during the same hours that the employee would have worked. (12-10-90)

b. Shift differential compensation shall be paid for all hours worked by a relief shift employee. (12-10-90)

02. Shift Pay Rate. Shift differential compensation shall be paid at the rate of five percent (5%). (7-1-94)

03. Hours Paid at Shift Rate. If an employee qualifies for shift differential pay during a workweek, the shift rate shall be calculated for all hours reported in that week, including holiday pay, overtime and leave taken. The resulting amount of shift differential pay shall be included in the compensation for that pay period. (12-10-90)

04. Ineligible Employees. Employees who are ineligible for cash compensation and compensatory time for overtime work are ineligible for shift differential compensation. (Ref. Section 67-5329(1)). (12-10-90)

05. Multiple Positions. For an employee who has more than one (1) position, eligibility for shift differential shall be determined by position. (2-6-92)

**076. -- 079. (RESERVED).**

**080. RECRUITMENT.**

The state personnel director shall cooperate with the appointing authority of each department and with the director of the Department of Employment in the operation of a coordinated recruiting program. (4-5-85)

**081. PURPOSE OF EXAMINATIONS.**

The state personnel director shall conduct examinations for the purpose of maintaining eligibility registers. (8-1-81)

**082. TYPES OF EXAMINATIONS.**

For the purpose of establishing eligibility registers, there are two (2) kinds of examinations: (8-23-82)

01. Open Competitive. Open-competitive examination; and (8-23-82)

02. Promotional. Promotional examination. (8-23-82)

**083. LOCATION OF EXAMINATIONS.**

When the state personnel director determines it to be in the best interest of the personnel system, examinations may be held in specific areas of the state. (4-5-85)

**084. ANNOUNCEMENT OF EXAMINATIONS.**

01. Distribution of Announcements. The announcement of each open-competitive examination shall be supplied to the appropriate local offices of the Idaho Department of Employment and to other locations determined necessary by the state personnel director to develop a register of eligibles. If the open-competitive examination has been requested by the appointing authority in lieu of a promotional examination, it shall be his or her responsibility to post or otherwise distribute the announcement so it can be seen by all employees of that department prior to its expiration date. (Ref. Rule 170.01.b.) (4-5-85)



02. Posting of Announcements within Departments. The announcement for each promotional examination shall be supplied to the appointing authority of each affected department. It shall be his or her responsibility to post or otherwise distribute such announcement so it can be seen by all employees in the department prior to the expiration date. (4-5-85)

**085. CONTENT OF ANNOUNCEMENTS.**

Each announcement of an examination shall contain the title of the class, characteristic duties and responsibilities, salary, minimum qualifications, nature of the examination, relative weights of the various portions of the examination, qualifying score, closing date, and other pertinent information. (4-5-85)

**086. APPLICATIONS.**

01. Form. All applications shall be filed on the form prescribed by the Idaho Personnel Commission. A separate form must be filed for each class for which application is made unless otherwise prescribed in the announcement. (8-1-81)

02. Filing of Applications. Applications are currently accepted by mail, personal delivery and FAX to the Personnel Commission. Whenever applications are filed by FAX, the original shall be deposited in the mail the same day or hand delivered the following day. An application will also be considered timely if any personnel office receives and date stamps it by the closing date, notifies the Exams Bureau that the application has been received, and ensures that it is delivered to the Commission by 5:00 p.m. the next business day. (6-18-95)

03. Application by Military Personnel. An application for examination will be accepted after the closing date of the announcement from a person who was serving in the armed forces, or undergoing hospitalization of no more than one (1) year following discharge, during any period in which the examination announcement was open. The application must be submitted within one hundred twenty (120) days of the applicant's separation from the armed forces or hospitalization and prior to the expiration of the register established as a result of the examination. The applicant must be a resident of Idaho when application is made. (Ref. Sections 65-502 and 67-5309(e), Idaho Code). (4-5-85)

04. Examination of Disabled Veterans. A disabled veteran may file an application for examination at any time for any class for which the Personnel Commission maintains a register or for which a register is about to be established, provided he or she has not already been examined twice for the same class, does not have current eligibility on that register, or is not serving in a class in the same or higher pay grade as the class for which application is made. The applicant must be a resident of Idaho when application is made. (Ref. Sections 65-502 and 67-5309(e), Idaho Code). (4-5-85)

05. Promotion of Entrance Probationary Employee. Any classified employee on entrance probation may file an application for a promotional opportunity but may not be placed on a register until permanent status has been attained. (Ref. Rules 160.01. and 170.03.). (7-1-87)

06. Disclosure of Information for Hiring Purposes. By submitting an application, an individual is deemed to authorize disclosure of confidential information to state agencies for purposes of screening, testing, interviewing and hiring. (Ref. Section 9-340(36), Idaho Code). (12-10-90)

**087. REJECTION OF APPLICATIONS.**

01. Basis. Any application for examination may be rejected in case the state personnel director finds: (8-1-81)
- a. That the applicant does not meet the minimum qualifications specified in the announcement for admission to the examination; provided, however, that the state personnel director may admit to examination any applicant who will meet the requirements at the time set for appointment. (4-5-85)
  - b. That the application was not received on or before the closing date for acceptance of applications. (4-5-85)

c. That a background investigation or examination of an applicant discloses that the applicant committed an act which is cause for dismissal as provided in Rule 190. (7-1-87)

02. Effect of Rejections. When any such finding under Rule 087.01 is made, the state personnel director may reject the application and may cancel the eligibility of the applicant if he or she has already attained a place on the eligibility register. If the applicant has already received appointment, the state personnel director may take appropriate action to have the employee removed from the position. (8-1-81)

**088. -- 089. (RESERVED).**

**090. EXAMINATIONS.**

Examinations shall be designed to test factors pertinent to an individual's ability to perform competently the duties of the classification. The factors tested shall be job-related and may include, but are not limited to, education and experience, knowledge, skills, abilities, aptitude, and physical condition. (4-5-85)

**091. PROHIBITED FACTORS.**

No part of any examination shall include any question designed to reveal the political or religious affiliation or belief, national origin or race of any candidate. (8-1-81)

**092. PREPARATION OF EXAMINATIONS.**

01. Content of Examinations. Examinations may include any questions, tests or criteria designed to evaluate the fitness of applicants and their capacity to develop in merit advancement. So far as is practical, promotional examinations shall be similar to corresponding open-competitive examinations and the same standards shall be applied in determining scores. (4-5-85)

02. Job Analysis and Confidentiality. Contents of each examination shall be determined by the Personnel Commission staff on the basis of appropriate professional techniques and procedures of job analysis and test development. No information concerning the specific content of the examination shall be divulged to unauthorized personnel by Personnel Commission staff or other personnel who have access to the examinations. (4-5-85)

03. Subject-Matter Experts. The Personnel Commission staff may, at their discretion, collaborate with appointing authorities, incumbents, subject-matter experts, or other qualified persons in the preparation of examinations. (8-1-81)

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

01. Designation of Examiners. The examinations shall be conducted and rated by persons designated by the state personnel director. (8-1-81)

02. Scoring of Examinations. Each examination shall be rated for final scores on the basis of one hundred (100) point maximum. The passing point for final scores shall be seventy (70). The Personnel Commission staff shall use appropriate statistical and professional techniques and procedures in determining passing points and final scores. (4-5-85)

03. Veterans' Preference. (4-5-85)

a. Veterans' and disabled veterans' points, when applicable under state law, shall be added to the final score achieved in the examinations, notwithstanding the fact that the augmented final score may exceed one hundred (100) points. Veterans' preference points are only applicable when the applicant is a resident of Idaho. (Ref. Sections 65-502 and 67-5309(e), Idaho Code) (4-5-85)

b. Veterans' and disabled veterans' preference points shall not be added to the raw score in order to achieve a passing score. (4-5-85)

04. Failing Score. Failure in any part of the examination may disqualify the applicant in the entire examination and from having his or her name placed on the register. Final scores shall be computed in accordance with weights assigned the individual factors in the total examination. (4-5-85)

05. Use of Alternate Announcement. An examination may be rated for another class under current announcement at the discretion of the state personnel director. (4-5-85)

06. Waiver of Examination. Notwithstanding other provisions in these rules, when ten (10) or fewer applications are received for a class and there is no existing register, the announced examination may be waived by the state personnel director. Applicants meeting minimum qualifications shall be eligible for appointment and their placement on the register shall take into account veterans' preference. When using registers developed in this manner, appointing authorities shall provide the opportunity for placement interviews for each applicant on the register. (7-1-97)T

07. Examination Upon Reclassification. An employee occupying a position which is reclassified (Rule 067.01) may be required at the discretion of the state personnel director to pass an examination for the class to which reclassified. (4-5-85)

**094. ELIMINATION TESTS.**

Wherever it is stated in the announcement that an applicant must qualify in a series of different tests or satisfy other requirements to become eligible for appointment, and the applicant fails to meet such requirements, he or she shall not be permitted to take any further tests in the examination, and such tests if previously given need not be rated. (4-5-85)

**095. NOTICE AND RECORD OF RESULTS OF EXAMINATION.**

All competitors shall be notified by mail of their final scores. The records of scores shall be held as official records for the life of the resulting eligibility registers. Any competitor, or his or her representative authorized in writing, shall be permitted to inspect his or her own papers and records except examination content and scoring material upon application in person at the office of the Idaho Personnel Commission in Boise during business hours. Such review shall be limited to the time allowed for appeal from examination scores. (Ref. Rule 096). (4-5-85)

**096. APPEALS FROM RATINGS.**

Any competitor, by written request to the state personnel director, may appeal his or her examination score within thirty-five (35) calendar days after the notice was mailed to such competitor. The state personnel director shall review the test, may change the score, and may take any other action necessary to insure the integrity and quality of the testing process. When such review discloses error affecting the scores of other competitors, the review and adjustment shall include their scores. The state personnel director shall provide a written explanation to competitors whose scores are affected by the action taken. (6-11-89)

**097. ALTERNATIVE EXAMINATION PROCESS FOR PERSONS WITH DISABILITIES.**

01. Conditions for Eligibility. Notwithstanding other provisions in these rules, an agency may appoint an individual directly into entrance or promotional probationary status in a class if the Division of Vocational Rehabilitation, the Idaho Commission for the Blind or the Industrial Commission certifies the following: (7-1-93)

a. That the individual has a disability or handicap, which is a physical or mental impairment that substantially limits one or more major life activities, as further defined under state or federal law; (7-1-93)

b. That the individual meets the minimum qualifications of the class and is qualified to perform the essential functions of a particular classified position with or without reasonable accommodation; and (7-1-93)

c. That the individual lacks competitiveness in the examination process due to the disability or handicap. (7-1-93)

02. Concurrence Required. The certification shall be made with the concurrence of Personnel Commission staff. (7-1-93)

03. Probationary Period. The probationary period shall be the sole examination for individuals certified under this alternative examination process. (Ref. Rule 150). (7-1-93)

**098. -- 099. (RESERVED).**

**100. ELIGIBILITY REGISTERS.**

Eligibility registers shall be established by the Personnel Commission staff to provide for fair and impartial selection for entrance into the state classified service and for promotion on the basis of competitive merit examinations. (4-5-85)

**101. TYPES OF ELIGIBILITY REGISTERS.**

There are four (4) kinds of eligibility registers: (4-5-85)

01. Layoff Registers. Departmental layoff registers shall for a given class contain the names of classified employees of permanent or probationary status who have been laid off or demoted because of shortage of work or funds, reorganization, or abolishment of a position. Ranking on such register is to be made in accordance with Rule 146, governing employee preference. (4-5-85)

02. Departmental Promotional Registers. Departmental promotional registers shall for a given class contain the names of classified employees with permanent status in a given department who successfully passed a departmental promotional examination for the class. (4-5-85)

03. Statewide Promotional Registers. Statewide promotional registers shall for a given class contain the names of all classified employees with permanent status in all state departments who successfully passed a statewide promotional examination for the class. (4-5-85)

04. Open Competitive Registers. Open competitive registers shall for a given class contain the names of applicants who successfully passed an open-competitive examination for the class. (4-5-85)

**102. PLACEMENT ON REGISTER.**

01. Score Order. Eligibles shall be placed on the register for a given class ranked in descending numerical order in accordance with their final score on the examination for such class. (4-5-85)

02. Veterans' Preference. Veteran eligibles entitled to five (5) point preference shall be placed on the open-competitive register in accordance with their final score on the examination augmented by preference points. (Ref. Rule 093.03) (4-5-85)

03. Disabled Veterans' Preference. Disabled veteran eligibles entitled to ten (10) point preference shall be placed at the top of the open-competitive register above all other eligibles in order of their final score on the examination augmented by preference points. (Ref. Rule 093.03) (4-5-85)

04. Veterans' Preference for Initial Appointment Only. The additional points added by reason of veterans' preference shall be used only for initial appointment and not for the purpose of promotions in classified service or subsequent appointment after an interruption in service. (Ref. Section 65-506, Idaho Code) (7-1-87)

**103. DURATION OF ELIGIBILITY REGISTERS.**

Except for layoff registers (Rule 101.01) the names of eligible candidates on any eligibility register shall remain thereon for twelve (12) months unless the duration of the register is specifically extended or shortened by the state personnel director. (4-5-85)

**104. REMOVAL OF NAMES.**

01. Reasons Specified. Names may be removed from an eligibility register by the state personnel director because of: (4-5-85)

- a. Appointment of the eligible from the register to the class or appointment to a class in a higher pay grade. (4-5-85)
- b. Filing of a statement by the eligible that he or she is not willing to accept appointment under conditions previously specified. (4-5-85)
- c. Physical, mental or other disability where it has been demonstrated that the disability will prevent the eligible from satisfactorily performing the essential functions of the position with reasonable accommodation for the handicap. (4-5-85)
- d. Failure of an eligible to respond within seven (7) calendar days to inquiry concerning availability for employment. (4-5-85)
- e. The eligible's conduct renders him or her unsuitable for a position in the state service. (4-5-85)
- f. Written rejection of the eligible for good cause by an appointing authority as approved by the state personnel director. (7-1-87)
- g. Conviction of an eligible of any felony. (4-5-85)
- h. False statements of material facts given in the eligible's application for employment or any subsequent examinations or interviews. (4-5-85)
- i. Dismissal of an eligible from state service. (4-5-85)

02. Removal for Improper Influence. The state personnel director may remove from an eligibility register the name of any person who has paid, promised to pay, or given any money, thing, service or consideration to any person, directly or indirectly, for any service or influence given, used, or promised towards securing appointment; or any person who has directly or indirectly obtained information regarding examinations to which, as an applicant, he or she is not entitled. (4-5-85)

03. Refusal of Referral or Position. Any eligible candidate who one (1) time refuses a referral or refuses to accept a position under the conditions set forth in the examination announcement may have his or her name removed from the eligibility register by the state personnel director. (7-1-87)

04. Removal of Names. If the name of an eligible candidate has been certified for a probationary appointment for three (3) separate positions in the same class in the same department and has not been accepted for good cause, an appointing authority may request in writing to the state personnel director that the candidate not be certified to that department again for that class. (7-1-87)

05. Removal for Declining Three Offers. Upon written petition from an appointing authority, an employee's name may be removed from a departmental layoff register if the employee declines three (3) separate offers of reemployment without good cause. (Ref. Rule 101.01) (7-1-87)

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

Temporary unavailability of an eligible applicant, not to exceed fifteen (15) calendar days, in order that the employee may give his or her employer advance notice of separation is not proper cause for his or her removal from the register or rejection by an appointing authority. (4-5-85)

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

Upon receiving appropriate evidence, the state personnel director shall restore the name of an eligible to any eligibility register from which it has been removed for causes enumerated in Rule 104. (4-5-85)

**107. ABOLISHMENT OF CLASSES.**

Whenever a class is abolished, names on existing eligibility registers for the class may be combined with names on a comparable register providing the candidates meet the minimum qualifications for the class represented by the comparable register. (4-5-85)

**108. REVISION OF CLASS SPECIFICATIONS.**

Whenever a class specification is revised, the names of persons on the existing eligibility register who meet the minimum qualifications for the revised class shall be placed in score order on the eligibility register for the revised class. (4-5-85)

**109. (RESERVED).**

**110. CERTIFICATION AND SELECTION.**

Whenever a vacancy in a classified position is to be filled by the competitive examination process, the appointing authority shall make selection from eligibility registers certified by the Personnel Commission staff. (4-5-85)

**111. NUMBER OF NAMES ON REGISTER.**

The Personnel Commission staff shall certify from the eligibility register, in the order of their scores, a sufficient number of names so that the appointing authority shall be able to select for appointment from among ten (10) eligibles successively for each position to be filled. If an appointment is to be made to one (1) position only, the top ten (10) available eligibles shall be certified. If appointments are to be made to more than one (1) position, one (1) additional name shall be added for each vacancy so that the appointing authority shall have ten (10) names to consider for each vacancy. The names of all eligibles with scores identical to the tenth ranking eligible on the register shall be arranged in alphabetical order and certified as a single eligible for selection purposes. A register with at least five (5) eligibles shall be adequate. (7-1-97)T

**112. USE OF OPEN-COMPETITIVE REGISTER.**

In instances where recruitment is undertaken to establish an open-competitive register to fill a particular position or positions, any request for a register shall automatically be considered as a request for an open-competitive register until at least one position is filled from such a register. (7-1-87)

**113. SELECTIVE CERTIFICATION.**

The state personnel director may authorize selective certification from a register where specific qualifications for a position are justified by an appointing authority in addition to the minimum qualifications for the class. (4-5-86)

**114. USE OF NAMES FROM APPROPRIATE ELIGIBILITY REGISTERS.**

In the absence of an eligibility register for a class, the state personnel director may authorize certification from an eligibility register for a comparable class. (4-5-85)

**115. -- 119. (RESERVED).**

**120. APPOINTMENTS, REINSTATEMENTS, TRANSFERS, AND RESIGNATIONS.**

01. Form. Appointing authorities shall notify the state personnel director of each appointment on the prescribed form. (2-6-92)

02. Layoff Register. Appointments to a class are not permissible as long as there is a departmental layoff register (Rule 101.01) for the class with names of eligibles who are willing to accept employment. (4-5-85)

03. Credited State Service. Except as provided by Rules 040 and 250.02, no classified credited state service shall accrue to employees for any service under temporary, project exempt, or nonclassified appointments. (7-1-87)

04. Probationary Period Required. All appointments to positions in the state classified service whenever adequate eligibility registers exist for the class shall be probationary appointments except as otherwise provided in Rule 040. (7-1-87)

05. Provisional Appointment. (7-1-93)

a. A provisional appointment may be authorized in the absence of an adequate register of eligibles. A provisional appointment will not be authorized if the announcement for the position is closed pending establishment

of a register. (4-5-85)

b. In nominating a person for provisional appointment, the appointing authority shall transmit to the state personnel director an application for employment of the nominee. If the applicant meets the minimum qualifications established for the class, the nominee may be provisionally appointed to fill an existing vacancy in a position for no longer than thirty (30) calendar days after establishment of an adequate register. Successive provisional appointments of the same individual or successive provisional appointments to the same position shall not be permitted unless specifically authorized by the state personnel director. (4-5-85)

c. Provisional incumbents shall be given opportunity to take the examination for the class of position. Any provisional employee who fails to pass such an examination within certifiable range or who has an opportunity to take such an examination and has not availed himself or herself thereof shall be separated no later than thirty (30) calendar days after the establishment of an adequate register of eligibles. (4-5-85)

d. A period of provisional service immediately prior to an employee's probationary appointment from an eligibility register shall be credited to the probationary period. (Ref. Rule 154) (4-5-85)

**121. LIMITED SERVICE APPOINTMENTS.**

01. Length of Limited Service. Limited-service appointments (ref. Rule 010.04 for definition) are restricted to six thousand two hundred forty (6,240) hours of credited state service for non-career positions of relatively short duration. (4-5-85)

02. Conversion to Permanent Status. Employees appointed under limited-service appointments will automatically convert to career employees with permanent status if employed in limited-service appointments in excess of six thousand two hundred forty (6,240) hours. (4-5-85)

03. Limited Service Agreement. Appointing authorities making limited-service appointments shall 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 and the duration the employee may expect to work. A copy of this agreement shall be submitted to the state personnel director. (12-10-90)

**122. SEASONAL APPOINTMENT.**

01. Purpose. An appointing authority may make a seasonal appointment from a register for work that occurs intermittently during the year. (Ref. Idaho Code Section 67-5302(29)). (12-10-90)

02. Employee Rights. Employees appointed under a seasonal appointment will have all obligations, rights, and privileges of any classified employee except those accorded by Rules 140-147, relating to reduction in force. (12-10-90)

03. Separation. Employees appointed under a seasonal appointment may be separated from the seasonal appointment and returned thereto as frequently as intermittent workload dictates. (12-10-90)

04. Duration of Appointment. If an employee has not been called to work for six thousand two hundred forty (6240) hours (three (3) years), the seasonal appointment expires; rehire of the employee must be from a register. (12-10-90)

**123. TEMPORARY APPOINTMENTS.**

Temporary appointments shall be limited to one thousand three hundred eighty-five (1,385) hours of work in any twelve (12) month period for any one (1) department. Both calculations shall begin on the date of the original temporary appointment. (Ref. Section 67-5302(31), Idaho Code, for definition. (7-1-87)

**124. PROJECT-EXEMPT APPOINTMENTS.**

Project-exempt appointments shall be 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, for definition. (4-5-85)

**125. REINSTATEMENTS.**

01. Eligibility. A current or former employee shall be eligible for reinstatement to a class in which he or she held permanent status, or if deleted its successor, or to another class of equal or lower pay grade under the following conditions (salary treatment is covered by Rule 072.05). (4-5-85)

a. Reinstatement must occur within a period equal to the length of the employee's probationary and permanent employment combined. (7-1-93)

b. The current or former employee must have separated from the class for which reinstatement is desired without prejudice. A former employee must also have separated from state classified service without prejudice. (4-5-85)

c. The current or former employee must meet the current minimum qualifications of the class to which reinstatement is desired. (4-5-85)

02. Reinstatement Prohibited. Reinstatement of a current or former employee is not permissible as long as there is a departmental layoff register (Rule 101.01) for the class with names of eligibles who are willing to accept reemployment. (4-5-85)

03. Examination. The state personnel director may require a current or former employee to pass an examination for the class to which reinstatement is desired. (4-5-85)

04. Return from Military Duty. An employee returning from military leave without pay (Rule 250.05) who is relieved or discharged from military duty under conditions other than dishonorable shall be, upon application, reinstated in his or her former position, or one of comparable classification, without loss of credited state service, status, or pay as prescribed by Sections 46-216, 65-511 and 65-512, Idaho Code, or the Military Selective Service Act, Title 38, Chapter 43, U.S. Code. Application for reemployment must be made within ninety (90) calendar days after separation from military duty or from hospitalization continuing after discharge up to one (1) year. Salary treatment is covered by Rule 072.09. (7-10-88)

**126. TRANSFERS.**

01. Authority to Transfer. An appointing authority may transfer an employee at any time from one position to another in the same class. (4-5-85)

02. Transfer within Pay Grade. An appointing authority may transfer an employee from a class in which he or she holds permanent status to another class allocated to the same pay grade for which the employee meets the minimum qualifications. (4-5-85)

03. Limitation. Transfers shall not be used to abridge an employee's rights in reduction in force prescribed by Rules 140-147. (7-1-87)

04. Transfer Between Departments. An employee shall be eligible for transfer between departments in the same class in which he or she holds permanent status or to another class in the same or lower pay grade for which the employee meets the minimum qualifications. Accrued vacation and sick leave shall be transferred in accordance with Rules 230.04 and 240.02. Salary treatment is covered by Rule 072.04. (7-1-87)

05. Restriction. Transfer of an employee between departments is not permissible as long as there is a departmental layoff register (Rule 101.01) for the class in the department to which transfer is desired with names of eligibles who are willing to accept reemployment. (4-5-85)

06. Examination. The state personnel director may require an employee transferring between classes to pass an examination for the class to which transfer is desired. (4-5-85)



**127. RESIGNATION.**

01. Notice. A classified employee may resign at any time. A resignation is effective at the time designated by the employee, without need for written or advance notice, or acceptance of the resignation by the department. (6-11-89)

02. Rescission and Reinstatement. Once an employee has submitted a resignation, reinstatement is in the discretion of the department as provided in Rule 125. The department may but is not required to allow an employee to rescind a resignation prior to its effective date. (6-11-89)

03. Resignation In Lieu of Dismissal. An employee may resign in lieu of being dismissed for cause. (7-1-93)

**128. -- 129. (RESERVED).**

**130. 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 class of higher pay grade within his or her own department in an acting capacity whenever: (7-10-88)

a. The incumbent of the position in the higher class is on authorized leave of absence; or (7-10-88)

b. A vacancy exists and there is no departmental layoff register (Rule 101.01) with names of eligibles who are willing to accept reemployment, nor adequate departmental register for the class. (7-10-88)

02. Minimum Qualifications. To be eligible for an acting appointment, an employee must meet the minimum qualifications of the class. (4-5-85)

03. Notification. Appointing authorities shall notify the state personnel director of each acting appointment on the prescribed form no later than the effective date of the appointment unless an exception is specifically authorized by the state personnel director. (2-6-92)

**131. LIMITATION ON LENGTH OF APPOINTMENT.**

Such appointments shall be limited to the period of time necessary to fill the vacancy pursuant to procedures prescribed in these rules but in no case shall continue beyond one thousand forty (1,040) hours of credited state service unless specifically extended by the state personnel director. (4-5-85)

**132. SALARY.**

For any credited state service which an employee serves in a class in an acting capacity, he or she shall receive the salary for the class as though he or she had actually been promoted. (4-5-85)

**133. EXPIRATION OF APPOINTMENT.**

01. Return of Incumbent. When the incumbent of the class returns from leave of absence, or the vacant position is filled, the acting appointment shall expire. The acting appointee shall be returned to the class, the pay grade and rate held immediately preceding the acting appointment. (7-1-94)

02. Failure of Incumbent to Return. Should the employee on leave of absence separate from state service, the employee serving in the acting appointment may continue to serve in that capacity until the vacancy has been filled but in no case exceed the time limits prescribed in Rule 131. (4-5-85)

03. Probationary Period Upon Promotion. The time served in an acting appointment immediately preceding an employee's promotion from an eligibility register to the class shall be credited to the employee's probationary period. (Ref. Rule 154) (4-5-85)

**134. -- 139. (RESERVED).**

**140. REDUCTION IN FORCE.**

An appointing authority may lay off an employee whenever it is necessary because of shortage of funds or work, reorganization, or the abolishment of one (1) or more positions (ref. Rule 066). A material change in duties of one (1) or more positions resulting in an employee's reclassification to a classification allocated to a lower pay grade shall not constitute a layoff (ref. Rule 067). A reduction in the number of hours worked for a selected position or positions shall constitute a layoff unless there is an equal reduction of hours worked for all positions within the department or within the organizational unit approved pursuant to Rule 140.02. Layoffs shall be accomplished in a systematic manner with equity for the rights of classified employees and shall not abrogate an employee's right of grievance or appeal if the layoff is in fact a dismissal. (4-5-85)

01. Layoff by Position. Reduction in force shall be by class of position regardless of class of incumbent. (4-5-85)

a. Reduction in force may be limited to or specifically exclude employees appointed under selective certification (Rule 113) for bona fide occupational qualifications or appointed under specific options or minimum qualification specialties in a class. Inclusions or exclusions must include or exclude all incumbents of the class appointed under similar selective certification, or the same option or minimum qualification specialty and must be approved in advance by the state personnel director. (7-1-93)

b. Reduction in force for employees in limited-service appointments shall be limited to the program or function for which the appointments were made. (4-5-85)

c. Reduction in force for employees in seasonal appointments will be governed by workload fluctuations and has no applicability under this rule. (Ref. Rule 122). (12-10-90)

02. Layoff Unit. Reduction in force shall be department-wide or by organizational unit determined by the appointing authority provided the organizational-unit designation for layoff purposes is made by the appointing authority and approved by the Personnel Commission before the effective date of the layoff. (4-5-85)

03. Calculation of Retention Points. There shall be competition among all employees in the class in the department or organizational unit affected by the reduction in force based on a retention point system derived from performance evaluations (ref. Rule 210 as follows): (7-1-87)

<b>Performance Level</b>	<b>Retention Points Earned Per Hour of Credited State Service</b>
Superior or equivalent	.100
Very Good or equivalent	.075
Satisfactory or equivalent	.050
Needs Improvement or equivalent	.000
Unsatisfactory	.000

a. All credited state service for which there is no performance evaluation shall receive five one hundredths (.05) points per hour. (4-5-85)

b. War veterans as defined in Chapter 5, Title 65, Idaho Code, shall receive a bonus of three hundred twelve (312) retention points which is equivalent to three (3) years of satisfactory service. (4-5-85)

c. No points shall be calculated for the last three (3) months prior to a reduction in force. (4-5-85)

04. Audit of Retention Points. Each employee shall be entitled to an audit of retention points by an

independent auditor designated by the state personnel director 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 shall be 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. (7-1-87)

**141. CREDITED STATE SERVICE.**

Eligible credited state service for purposes of Rule 140 is defined as follows: (4-5-85)

01. Service Prior to State Personnel System. All credited state service prior to the establishment of classified service, Chapter 53, Title 67, Idaho Code. (Ref. Sections 67-5332 and 59-1604, Idaho Code, for definitions of credited state service) (4-5-85)

02. Classified Service. All classified credited state service since the establishment of classified service. (4-5-85)

03. Nonclassified Service. All credited state service in a position exempt from classified service if that position is subsequently transferred to classified service pursuant to Rule 040. (7-1-87)

04. Leave of Absence from Classified Service. All credited state service, in a leave of absence from classified service, that a classified employee serves in a nonclassified position. Limitations are contained in Rules 250.02.a. and 125.01.a. (7-1-87)

**142. PROCEDURE AND NOTIFICATION.**

01. Identification of Classes. The appointing authority shall identify the class(es) of position to be affected by layoff and the organizational unit if applicable under Rule 140.02. (4-5-85)

02. Calculation of Retention Points. Retention points shall be calculated for all employees assigned to the class of position including those serving in underfill positions (ref. Rule 010.60 or acting appointments (ref. Rule 130). Employees on approved leave of absence without pay shall not be included (ref. Rule 142.04). Retention points need not be calculated where layoff involves a single-incumbent class. (7-1-87)

03. Order of Reduction in Force. The order of reduction in force shall be by type of appointment held by the employee in the affected class(es) as follows: first to be laid off are provisional appointees, next the probationary appointees, and then the permanent appointees. Employees shall be placed on the layoff list beginning with the employee with the highest number of retention points. Employee layoffs shall be made from the layoff list in inverse order. When two (2) or more employees have the same combined total of retention points, retention shall be determined in the following sequence: (4-5-85)

a. The employee with the highest overall average performance credit (total retention points divided by total credited state service). (4-5-85)

b. Random selection. (4-5-85)

04. Employee Returning from Leave of Absence. An employee returning from a leave of absence without pay to a class for which a layoff register exists will be laid off in accordance with these rules if there are employees on the layoff register for the class with more retention points (ref. Rule 142.02). (7-1-87)

05. Notification of Affected Employees. Each employee affected shall be notified in writing of layoff and reasons therefor at least fifteen (15) calendar days prior to the effective date of the layoff. Notification shall include a copy of the departmental layoff procedure and a copy of the computation of retention points when required (ref. Rule 142.02). (4-5-85)

06. Notification to State Personnel Director. The appointing authority shall give written notice of layoff to the state personnel director at least fifteen (15) calendar days prior to its effective date and shall provide a list of persons affected by the layoff with their retention point calculations and shall indicate which employees will be laid

off. (4-5-85)

**143. VOLUNTARY DEMOTION IN LIEU OF LAYOFF.**

An employee with permanent status, may, in lieu of layoff, elect voluntary demotion to a class, or if deleted, its successor, in which the employee held permanent status in the department. Such demotion shall not be permitted, however, if the result would be to cause the layoff of an employee with permanent status with greater retention points. To exercise the right of voluntary demotion in lieu of layoff, the employee must notify the appointing authority in writing of such election no later than five (5) working days after receiving notice of layoff. (7-1-94)

**144. PLACEMENT ON LAYOFF REGISTER.**

An employee who elects a voluntary demotion in lieu of layoff or an employee laid off from state service under these rules shall be placed on a layoff register (Rule 101.01) in accordance with Rule 146 for one (1) year from the effective date of demotion or layoff, or until the employee or former employee declines three (3) separate offers of reemployment without good cause (Rule 104.05). (7-1-87)

**145. USE OF LAYOFF REGISTER.**

An employee on a layoff register shall be offered reemployment to a position in the class from which laid off before any other person may be promoted, transferred, reinstated, or appointed, including acting appointment, to such class by the appointing authority enforcing the layoff. (Ref. Rule 101.01). (4-5-85)

**146. APPLICATION OF REEMPLOYMENT PREFERENCE.**

01. Reemployment Rights. Reemployment preference from layoff registers shall be determined by retention points in rank order from highest to lowest within each of the following categories of employees (salary treatment is covered by Rule 072.03): (4-5-85)

- a. Employees with permanent status in the class. (4-5-85)
- b. Promotional probationary employees who have permanent status in a class allocated to a lower pay grade. (4-5-85)
- c. Probationary employees without permanent status in any class. (4-5-85)

02. Exception. Employees who have neither probationary nor permanent status in a class affected by a layoff, and employees serving in limited-service appointments have no preference for reemployment, and their names shall not appear on a layoff register. (7-1-87)

**147. INTERVIEWS.**

A department shall interview an employee who has been identified on a register as likely to be affected by a layoff or as having been laid off. (7-1-93)

**148. -- 149. (RESERVED).**

**150. PROBATIONARY PERIODS.**

01. Probationary Period Required. Except as provided in Rule 040, every appointment and promotion to a classified position shall be probationary, or in the absence of adequate registers, provisional. (7-1-87)

02. Types of Probationary Periods. The probationary period serves as a working test period to provide the department an opportunity to evaluate a probationary employee's work performance and suitability for the position. There are two (2) types of probationary periods: (7-1-94)

- a. Entrance probation is the probationary service required of an employee at the time of his or her original appointment or any subsequent appointment to state classified service excluding reinstatement and transfer, the duration of which shall be one thousand forty (1,040) hours of credited state service except for peace officers (defined in Idaho Code Section 19-5101), who shall serve two thousand eighty (2080) hours. (7-1-94)

b. Promotional probation is the probationary service required when an employee is promoted, the duration of which shall be one thousand forty (1,040) hours of credited state service except for peace officers (defined in Idaho Code Section 19-5101), who shall serve two thousand eighty (2080) hours. (7-1-94)

03. Extension of Probationary Period. Upon petition by an appointing authority that demonstrates good cause, the state personnel director 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. (7-1-94)

04. Interruption of Probationary Period. The probationary period in any class must be completed within a single department uninterrupted by resignation, termination (ref. Rule 152.02) or dismissal (ref. Rule 190). An employee who separated by means other than layoff during the probationary period must begin a new probationary period upon reappointment or promotion. The entrance probationary period is not interrupted by a voluntary demotion within a department. (7-1-93)

**151. SATISFACTORY SERVICE.**

When a probationary employee has satisfactorily served the probationary period, the appointing authority shall no later than thirty (30) calendar days after the expiration of the probationary period provide the employee and the Personnel Commission a performance evaluation indicating satisfactory performance and shall certify the employee to permanent status. Such certification to permanent status shall be effective one thousand forty (1,040) hours of credited state service after appointment, except that it shall be effective two thousand eighty (2080) hours of credited state service after appointment for peace officer classifications. (Ref. Section 67-5309(j), Idaho Code, and Rule 210.04). (7-1-94)

**152. UNSATISFACTORY SERVICE.**

01. Notification. Should a probationary employee fail to serve satisfactorily, the appointing authority shall no later than thirty (30) calendar days after the expiration of the probationary period provide the employee and the Personnel Commission a performance evaluation indicating unsatisfactory performance. (Ref. Section 67-5309(i), Idaho Code and Rule 210.04). (7-1-87)

02. Entrance Probation. (7-1-87)

a. An employee who fails to serve satisfactorily during the entrance probation shall 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 a grievance or an appeal. (7-1-87)

b. Notice to the employee of termination for unsatisfactory service shall be made not later than fifteen (15) calendar days prior to the effective date of termination, unless there are extenuating circumstances. (7-1-87)

03. Promotional Probation. Should an employee on promotional probation fail to serve satisfactorily in the position to which he or she has been promoted, the employee shall be returned to a position in the class in which he or she holds permanent status or to a classification allocated to the same pay grade for which the employee meets minimum qualifications. (4-5-85)

**153. FAILURE TO PROVIDE PERFORMANCE EVALUATION.**

If the appointing authority fails to provide a performance evaluation as required in Rules 151 and 152, the employee shall be considered to have satisfactorily completed the probationary period and shall be certified to permanent status as provided by Rule 151, unless the probationary period has been extended by the state personnel director. (Ref. Rule 150.03) (7-1-87)

**154. PROVISIONAL AND ACTING APPOINTMENTS.**

Satisfactory service in provisional and acting appointments shall be credited toward the probationary period required by Rule 150.01 if the employee is subsequently appointed or promoted to the class in which he or she is serving the provisional or acting appointment. (Ref. Rules 120.05.d. and 133.03) (4-5-85)

**155. -- 159. (RESERVED).**

**160. STATUS AND TENURE.**

01. Probationary Promotions. Employees serving a promotional probationary period shall have continued permanent status in the class from which promoted until they are certified as having satisfactorily completed the promotional probationary period in the class to which promoted. (Ref. Rules 151, 152.03. and 153) (7-1-87)

02. Tenure of Employment. All employment in the state classified service shall be without definite term except where the term may be specified by law, or under conditions of a limited-service appointment. (Ref. Rule 121) (4-5-85)

**161. -- 169. (RESERVED).**

**170. PROMOTIONS.**

01. Use of Promotional Registers. (7-1-93)

a. Preference for Promotion. Whenever practical, a vacancy in a classified position shall be filled by the promotion of an employee in the department in which the vacancy occurs. (4-5-85)

b. Exception. An appointing authority may request that a position be filled from a statewide promotional register (Rule 101.03) or an open-competitive register (Rule 101.04) whenever he or she determines that such an appointment will best serve the interests of the department. (Ref. Rule 112) (4-5-85)

c. Layoff Registers. Promotions to a class are not permissible as long as there is a departmental layoff register (Rule 101.01) for the class with names of eligibles who are willing to accept reemployment. (4-5-85)

02. Interdepartmental Promotions. All interdepartmental promotions shall be made using statewide promotional registers (Rule 101.03) (7-1-87)

03. Eligibility for Promotion. Promotional candidates must have permanent status (ref. Rule 160) and must meet the minimum qualifications of the promotional class. (4-5-85)

**171. -- 179. (RESERVED).**

**180. DEMOTIONS.**

Demotions authorized under these rules apply to both probationary and permanent status employees who meet the minimum qualifications of the class to which demoted. (7-1-87)

**181. NONDISCIPLINARY DEMOTION REQUIRED.**

An appointing authority shall make a nondisciplinary demotion when: (4-5-85)

01. Downward Reclassification. The position occupied by an employee is reclassified to a class allocated to a lower pay grade in accordance with assigned responsibilities pursuant to Rule 067. (4-5-85)

02. Voluntary Demotion in Lieu of Layoff. An employee with permanent status elects demotion in lieu of layoff as provided by Rule 143. (4-5-85)

**182. NONDISCIPLINARY DEMOTION OPTIONAL.**

An appointing authority may make a nondisciplinary demotion when: (4-5-85)

01. Voluntary. Requested by an employee and approved by the appointing authority. (4-5-85)

02. Displaced in Layoff. An employee is displaced by another employee entitled to the position pursuant to this section. (7-1-87)

**183. DISCIPLINARY DEMOTION.**

An appointing authority may make a disciplinary demotion for causes enumerated in Rule 190 which are not sufficiently severe to warrant dismissal. (7-1-87)

**184. NOTIFICATION.**

Except for Rule 182.01, an appointing authority shall give written notice of demotion concurrently to the employee and the state personnel director at least fifteen (15) calendar days prior to the effective date and shall set forth the specific reasons for the demotion. (4-5-85)

**185. -- 189. (RESERVED).**

**190. DISCIPLINARY ACTIONS.**

01. Cause for Disciplinary Actions. Disciplinary actions, including dismissal, suspension, demotion, or reduction in pay, may be taken against any employee in the state classified service for any of the following causes which occur during the employee's employment: (7-1-93)

a. Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes, or rules of the department or the Personnel Commission. (7-1-87)

b. Inefficiency, incompetency, or negligence in performing duties. (4-5-85)

c. Physical or mental incapability for performing assigned duties, if no reasonable accommodation can be made for the disabling condition. (Ref. Rule 010.47) (4-5-85)

d. Refusal to accept a reasonable and proper assignment from an authorized supervisor. (4-5-85)

e. Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the department. (4-5-85)

f. Intoxication on duty. (4-5-85)

g. Careless, negligent, or improper use or unlawful conversion of state property, equipment, or funds. (4-5-85)

h. Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage. (4-5-85)

i. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude. (4-5-85)

j. Acceptance of gifts in exchange for influence or favors given in an official capacity. (4-5-85)

k. Habitual pattern of failure to report for duty at the assigned time and place. (4-5-85)

l. Habitual improper use of sick leave. (4-5-85)

m. Unauthorized disclosure of confidential information from official records. (4-5-85)

n. Absence without leave. (4-5-85)

o. Misstatement or deception in application for employment. (4-5-85)

p. Failure to obtain or maintain a current license or certificate lawfully required as a condition in performance of duties. (4-5-85)

q. Prohibited participation in political activities. (Ref. Section 67-5311, Idaho Code) (4-5-85)

02. Suspension for Investigation. An appointing authority may suspend with pay an employee for investigation of disciplinary causes enumerated above. Each suspension for investigation shall be superseded by reinstatement to duty, dismissal or disciplinary suspension within thirty (30) calendar days of the suspension for investigation or within an extension of an additional thirty (30) calendar days approved by the state personnel director. Further extensions may be granted with the approval of the Personnel Commission. (7-1-93)

03. Disciplinary Suspension. An appointing authority may suspend without pay an employee for discipline for causes enumerated above. Disciplinary suspension of an employee with permanent status shall be subject to appeal by the employee to the Personnel Commission. (4-5-85)

04. Suspension on Felony Charges. An appointing authority may suspend without pay an employee upon the issuance of a complaint, an information or indictment for felony charges. Such suspensions may remain in effect during the time such charges are pending. Full reinstatement of all benefits and salary that the employee would have otherwise been entitled shall be provided by the appointing authority to the employee upon a subsequent finding that charges or information were without grounds or the employee was not found guilty. For the purpose of this rule, a judgment withheld under Rule 33(d) of the Idaho Rules of Criminal Procedure is a conviction. (7-1-87)

05. Notice to State Personnel Director. Whenever an appointing authority considers it necessary to take disciplinary action against an employee, he or she shall notify the employee and the state personnel director concurrently in writing; and shall set forth the specific rule(s) violated and the reasons for the action. Suspensions with pay for investigation (ref. Rule 190.02) may be made without prior notice to the employee; in this case, the appointing authority shall notify the state personnel director as soon as practical. (7-1-87)

**191. -- 199. (RESERVED).**

**200. PROBLEM-SOLVING AND DUE PROCESS PROCEDURES.**

01. Overview of Procedures. The problem-solving and due process procedures are different procedures. The problem-solving procedure deals with nondisciplinary matters. Nondisciplinary matters are job-related matters other than dismissals, suspensions without pay, demotions, and involuntary transfers. The problem-solving procedure is a chain-of-command procedure, generally requiring the employee to meet with the immediate supervisor, file for problem-solving, meet with up to two (2) additional levels of management, and receive a final decision from the department head. The due process procedure deals with the disciplinary matters set forth in Idaho Code Section 67-5315(2), dismissals, suspensions without pay, demotions, and involuntary transfers. The due process procedure generally requires the employee receive notice and an opportunity to respond before a disciplinary decision is made by the department. (7-1-97)T

02. Establishment of Departmental Problem-Solving and Due Process Procedures. Each participating department shall maintain written employee problem-solving and due process procedures, which have been approved by the state personnel director for conformity to law and this section. (7-1-97)T

03. Eligibility and Time for Filing Under Problem-Solving Procedure. Any classified employee with permanent, provisional or entrance probationary status may file under the problem-solving procedure as defined by Section 67-5315(1), Idaho Code. An employee shall file under the problem-solving procedure in writing not later than five (5) 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, it shall be considered timely if filed within five (5) working days after the last allegedly offensive action. The time limit for filing shall be extended due to the employee's illness or other approved leave, up to five (5) days after return to the job. The department may accept a filing that is or appears to be filed late, though the employee waives any right of review by the Commission by not complying with the time limit for filing (ref. Section 67-5315(3), Idaho Code). Department 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. (7-1-97)T

04. Elements of the Problem-Solving Procedure. The procedure shall contain a statement from the department 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 shall also provide a means whereby department representatives can obtain timely authority, if needed, to resolve the matter. The procedure shall 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 shall provide for no more than two (2) steps with such additional levels of management as are appropriate in the department. The procedure shall also provide for the use of an impartial mediator upon agreement by the employee and department. Timelines shall not exceed five (5) working days between each step. The procedure shall also inform the employee that he or she 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 shall be expressly prohibited. This procedure shall not apply to unsatisfactory performance during entrance or promotional probation (ref. Sections 67-5309(j), 67-5315(1), Idaho Code; IDAPA 28.01.01.150 through 154). (7-1-97)T

05. Filings Alleging Sexual Harassment or Other Illegal Discrimination. Each department's problem-solving procedure shall 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 shall expressly prohibit sexual harassment and discrimination. Employees shall be informed of their right to file complaints with the Idaho Human Rights Commission. The alternative procedure shall designate a specific person or persons to receive and investigate such filings, and shall require that the investigation and resolution of them be conducted with maximum regard for confidentiality. (7-1-97)T

06. Elements of Due Process Procedure. A department must provide notice and an opportunity to respond before making a decision to impose any disciplinary sanction set forth in Idaho Code Section 67-5315(2). With respect to notice, a department must provide notice of the contemplated action, the basis for the contemplated action, and an explanation of the evidence supporting the contemplated action. The notice shall be provided to the employee and state personnel director 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 shall not occur later than ten (10) working days after the employee has received notice, unless both the employee and department agree otherwise 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, shall make and implement the department's decision not later than three (3) working days thereafter. The procedure shall inform the employee of his or her right to be represented by a person of the employee's own choosing during the opportunity to respond. The procedure shall also provide for the use of an impartial mediator upon agreement by the employee and department. The procedure does not apply to unsatisfactory performance during entrance and promotional probation (ref. Sections 67-5309(j), 67-5315(2), Idaho Code; IDAPA 28.01.01.150 through 154). The due process procedure is complete when the appointing authority, or designee, mails or delivers a decision to the affected employee. The decision shall also be sent to the state personnel director concurrently. (7-1-97)T

07. Notification. A copy of the approved problem-solving and due process procedures shall be furnished and explained to each employee with permanent, provisional or entrance probationary status in the department concerned. (7-1-97)T

08. Assistance to Departments. The state personnel director shall assist departments whenever requested in the development or revision of their departmental problem-solving and due process procedures. (7-1-97)T

**201. APPEAL PROCEDURE.**

01. Idaho Rules of Administrative Procedure. In addition to the following rules on appeals and petitions for review, the Idaho Rules of Administrative Procedure of the Attorney General on contested cases, IDAPA 04.11.01.000 et seq., apply with the following exceptions, which are inconsistent with the Commission's statute or practice: IDAPA 04.11.01.055, 04.11.01.151.05, 04.11.01.240, 04.11.01.250, 04.11.01.270.01, 04.11.01.280, 04.11.01.300, 04.11.01.302, 04.11.01.651, 04.11.01.720, 04.11.01.730, 04.11.01.740, 04.11.01.790, 04.11.01.791, 04.11.01.821.02, 04.11.01.860. Petitions for rulemaking and declaratory rulings are addressed in Rules 270 and 271 of these rules. (7-1-94)

02. Filing of Appeal and Appearances. Every appeal filed with the Commission shall be written. The appeal shall be filed at the office of the Commission, and shall state the decision that is being appealed and the action requested of the Commission. The state personnel director shall serve a copy of the appeal on the respondent and upon the Deputy Attorney General for the Commission. Notices of appearance and notices of substitution of counsel need not be filed by Deputy Attorneys General or members of law firms already representing a party in an appeal or petition for review. (7-1-87)

03. Time for Appeal. An appeal from a decision of an appointing authority shall be deemed to be timely filed if received or postmarked within thirty-five (35) calendar days after completion of the departmental grievance procedure. Personal delivery or deposit in the United States mail, postage prepaid, of a written notification to the affected employee of the appointing authority's decision shall constitute completion of the departmental grievance procedure. An appeal of a decision or action of the Commission's director or staff must be filed within thirty-five (35) calendar days of personal delivery of notice of the decision or action, deposit of the notice in the United States mail, postage prepaid, or deposit of the notice in Statehouse mail. (7-1-87)

04. Setting of Hearing. Within thirty (30) days after receiving the appeal from the Commission, the hearing officer shall consult with the parties to set a mutually agreeable date for hearing. The hearing officer may thereafter postpone or continue the hearing for good cause. (7-1-87)

05. Filing of Documents. Once an appeal is referred to the hearing officer, all documents relating thereto shall be filed directly with the hearing officer during the pendency of the appeal. Copies of all documents submitted shall be provided simultaneously to opposing counsel and unrepresented parties. (7-1-87)

06. Burden of Proof. In disciplinary actions, the appointing authority has the burden of proving cause for the discipline by a preponderance of the evidence. In all other actions, the appellant has the burden of proof by a preponderance of the evidence. (7-1-87)

07. Open Hearing. Every hearing shall be public, unless the hearing officer closes the hearing for good cause. Individual parties may be represented by themselves or by an attorney. (7-1-87)

08. Protective Orders. The hearing officer may issue protective orders limiting access to information obtained in the course of a hearing. (7-1-93)

09. Decision of Hearing Officer. The hearing officer shall issue a decision in the form of a preliminary order pursuant to Section 67-5245, Idaho Code. The preliminary order shall explain the right to file a petition for review under Section 67-5317, Idaho Code. A motion for reconsideration under Section 67-5243, Idaho Code, is not permitted. (7-1-94)

10. Procedure for Award of Attorney Fees and Costs. If the hearing officer finds in favor of the employee in whole or in part, the hearing officer shall make a finding as to whether or not the state agency acted without a reasonable basis in fact or law. If the employee is entitled to statutory attorney fees and costs, counsel for the employee shall file a memorandum of costs, including a supporting affidavit stating the basis and method of computation of the amount claimed. The memorandum shall be filed with the hearing officer not later than ten (10) working days after receipt of the hearing officer's decision. The state agency shall then have ten (10) working days to file objections. The hearing officer shall make written findings as to the basis and reasons for the award. A copy of the memorandum of costs shall be served on the parties and filed with the Commission. (7-1-94)

11. Factors Considered in Award of Attorney Fees and Costs. The following factors shall be considered in the determination of an award of attorney fees and costs: (12-10-90)

- a. The time and labor required; (12-10-90)
- b. The experience and ability of the attorney; (12-10-90)
- c. The prevailing charges for like work; (12-10-90)
- d. The amount involved and the results obtained; (12-10-90)

- e. Awards in similar cases; and (12-10-90)
- f. Any other factor that appears pertinent to the award. (12-10-90)

**202. PETITION FOR REVIEW PROCEDURE.**

01. Filing of Petition for Review. A petition for review shall be deemed to be timely filed if received or postmarked within thirty-five (35) days of the hearing officer's decision. The petition shall be in writing and filed at the office of the Commission. The petition for review shall specifically cite the alleged errors of fact or law made by the hearing officer. (7-1-87)

02. Stay of Hearing Officer's Decision. Upon the filing of the petition for review, the jurisdiction of the hearing officer in the matter is ended except for resolving post-hearing motions and awarding attorney fees and costs. The hearing officer's decision and any orders entered pursuant to Rules 201.09 and 201.10 shall be automatically stayed. (12-10-90)

03. Nature of Hearing. The hearing of the Commission on a petition for review shall be limited to oral arguments regarding issues of law and fact as may be found in the record established before the hearing officer and any post-hearing orders. Written arguments or briefs and motions regarding the petition for review shall be allowed under such terms as the Commission may direct in its notice of hearing, which shall be issued at least twenty-eight (28) days prior to the date set for hearing. (12-10-90)

04. Transcript. If the petition for review involves questions of fact, the appellant shall provide a full transcript of the proceedings before the hearing officer for the Commission to review. The respondent shall pay for an additional copy of the transcript for respondent's own use. (7-1-87)

05. Requests for Postponement and Other Motions. (7-1-93)

a. Except in emergencies, a request for postponement shall be filed in writing by a party or representative not later than seven (7) days before the scheduled hearing. The state personnel director may determine whether good cause is shown for the postponement and grant or deny the request on behalf of the Commission. (7-1-87)

b. Motions to dismiss for lack of jurisdiction shall be decided by the Commission. Motion for reconsideration of Commission decisions pursuant to Section 67-5246, Idaho Code are not permitted. All other motions shall be referred by the state personnel director to one Commissioner, whose decision on the motion may be communicated to the parties by letter or other informal means, by the state personnel director or counsel to the Commission. (7-1-94)

06. Decision on Petition for Review. The decision of the Commission shall include a statement of appeal rights under Section 67-5318, Idaho Code. The Commission shall file the original copy of its decision with the record of the proceedings and mail copies to the parties immediately. (7-1-93)

07. Record of the Proceedings. A verbatim record of the proceedings at hearings before the Commission shall be maintained either by electrical devices or by stenographic means, as the Commission may direct, but if any party to the action requests a stenographic record of the proceedings, the record shall be done stenographically. The requesting party shall pay the costs of reporting the proceedings. (7-1-87)

08. Attorney Fees and Costs in a Petition for Review. A request for attorney fees and costs, with accompanying memorandum and affidavit in support of the request described in Rule 201.10, shall be filed with the Commission not later than ten (10) working days after receipt of the Commission's decision. The state agency shall then have ten (10) working days to file objections to the award. The Commission shall make findings as to the entitlement to attorney fees and costs, and determine the award, if any, in its decision on the petition for review, taking into account the factors defined in Rule 201.11. (7-1-94)

09. Protective Orders. The Commission may issue protective orders limiting access to information in

the record. (7-1-93)

**203. REFERRALS FROM FEDERAL AGENCIES ON DISCRIMINATION COMPLAINTS.**

01. Referral. Upon the referral of a complaint based on alleged discrimination by a department or employee from the appropriate federal agency to the department, a departmental grievance procedure established for this purpose and an appeal to the hearing officer of the Idaho Personnel Commission shall constitute the "applicable internal review procedure" referred to in the applicable federal regulations. Except as modified herein, the procedures, remedies, and process under Rule 200 remain intact. (7-1-87)

02. Departmental Procedure. The director of the department, immediately upon receipt of the complaint, shall notify the complainant of his or her right to use the procedure set forth herein to resolve the complaint. A panel or designated person shall take testimony or written evidence regarding the complaint as is necessary to fully discuss the circumstances surrounding the alleged act of discrimination. A written report in sufficient detail to allow subsequent reviewers to understand the allegations shall be compiled from the testimony and evidence adduced at the hearing. The person or panel may make such recommendations to the director of the department as it sees fit. The department director shall receive and consider the report and issue a decision based upon it. If the resolution is satisfactory to all parties, the federal agency will be notified the complaint has been resolved and forward a copy of the decision and acquiescence of the parties to it. (7-1-87)

03. Petition to Hearing Officer. (7-1-93)

a. If the decision of the director is unacceptable to the complainant, he or she may petition for review by the hearing officer of the Idaho Personnel Commission. The petition shall state the grounds for disagreement with the director's decision and be accompanied by a copy of the report and director's decision. (8-1-81)

b. Oral argument on behalf of the respective parties may be offered if it is requested. The decision of the hearing officer shall be the final administrative review under the "applicable internal review procedure." If the resolution is satisfactory to all parties, the appropriate federal agency shall be notified. If the resolution is unsatisfactory, the complaint shall be referred back to the originating federal agency for resolution. (6-30-78)

04. Time. In no event shall this process take more than sixty (60) days, except upon agreement between the parties and appropriate federal agency. (6-30-78)

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

**210. PERFORMANCE EVALUATIONS.**

01. Performance Evaluations. Each department shall adopt and maintain a system of employee performance evaluations. (4-5-85)

02. Approval of Form. The Personnel Commission staff shall make available a standard form for this purpose, but an appointing authority may utilize another form provided it meets the basic objectives of this rule and is approved by the state personnel director. (4-5-85)

03. Purpose. The purpose of performance evaluation is to provide an objective evaluation by the immediate supervisor of an employee's performance in comparison with established work standards for the position; and to identify an employee's strengths and weaknesses and where improvement is necessary. All ratings shall be discussed with affected employee who shall be allowed opportunity to submit written comments regarding the rating. (4-5-85)

04. Use of Evaluations. Performance evaluations shall be used in connection with promotions, demotions, retentions, separations, and reassignments (ref. Section 67-5309(g), Idaho Code); and used as the affirmative certification for merit increases and bonuses (ref. Section 67-5309C(c), Idaho Code); and for certifying a probationary employee to permanent status (ref. Rule 151). Other uses of performance evaluations are optional with the appointing authority. (6-11-89)

05. Evaluation Schedule. All classified employees shall be evaluated after one thousand forty (1,040) hours of credited state service from the date of initial appointment or promotion and after each two thousand eighty (2,080) hours of credited state service thereafter. (Ref. Section 67-5309C(c)(ii), Idaho Code.) Rating of nonclassified employees is optional with the appointing authority. (7-1-87)

06. Retention of Evaluation. A copy of the performance evaluation shall be retained in departmental records, and a copy shall be furnished the employee. A copy shall be provided to the state personnel director, with or without supporting documentation. (7-1-94)

**211. -- 219. (RESERVED).**

**220. RECORDS.**

01. Employee Service Records. (7-1-93)

a. For each employee in classified service, the Personnel Commission staff shall maintain a service record which shall include a copy of all personnel transactions pertinent to the employee's employment history. (4-5-85)

b. Service records or a microfilmed facsimile thereof for classified employees shall be maintained permanently by the state personnel director. (4-5-85)

c. Any employee may at all reasonable times during business hours review his or her service record maintained in the Idaho Personnel Commission in Boise or maintained in any department. Except for material used to screen and test for employment, all information maintained in an employee's service record shall be made available to the employee or designated representative upon request. File contents may be corrected if found in error according to the procedure contained in Section 9-342, Idaho Code. (12-10-90)

02. Administrative Records. The state personnel director shall permanently maintain a record or a microfilm facsimile of the proceedings of the Personnel Commission and a record of all hearings of appeals. (4-5-85)

03. Employee Personnel Action Documents. The appointing authority shall furnish each employee with a copy of every personnel action affecting the employee's status, pay, tenure, or other terms and conditions of employment, including performance evaluations. (4-5-85)

04. Transfers Between Departments. When an employee seeks a transfer between departments or agencies, the appointing authority of the hiring department or agency shall be entitled to examine the employee's service record before the hiring decision is made. (7-1-97)T

**221. -- 229. (RESERVED).**

**230. VACATION LEAVE.**

01. Eligibility. All classified employees regardless of status or whether full-time or part-time shall earn vacation leave and be eligible to take and be paid for unused vacation leave in accordance with Sections 67-5334, 67-5335, and 67-5337, Idaho Code. (7-1-87)

02. Rate of Accrual. All credited state service (ref. Sections 67-5332 and 59-1604, Idaho Code, for definitions) shall be counted in determining leave accrual rate. (4-5-85)

03. Mutual Agreement. Vacation leave requested by the employee may be used only when approved by the department. The employee and the department shall mutually agree upon such time or times when vacation leave will least interfere with the efficient operation of the department taking into consideration the vacation preference of the employee. (7-1-87)

04. Interdepartmental Transfer. An employee who is transferred from one (1) state department to another department shall be credited with accrued vacation leave by the receiving department at the time of transfer.

The amount of leave shall be shown on the transaction documents separating the employee from one (1) department and appointing him or her in the other. (4-5-85)

**231. -- 239. (RESERVED).**

**240. SICK LEAVE.**

01. Eligibility. All classified employees regardless of status or whether full-time or part-time shall earn sick leave and be eligible to take sick leave in accordance with Section 67-5333, Idaho Code. Sick leave shall only be taken in pay periods subsequent to being earned. (7-1-87)

02. Interdepartmental Transfer. An employee who is transferred from one (1) state department to another shall be credited by the receiving department with the amount of sick leave accrued at the time of transfer. The amount of such accrued leave shall be shown on the transaction documents separating the employee from one (1) department and appointing him or her in the other. (4-5-85)

03. Reasons for Use. Sick leave shall only be used in cases of actual illness or disability or other medical and health reasons necessitating the employee's absence from work, or in situations where the employee's personal attendance is required or desired because of serious illness, disability, or death and funeral in the family. For purposes of this rule, family means a spouse, child, parent, brother, sister, grandparent, grandchild, or the same relation by marriage. (7-1-96)L

04. Medical, Dental or Optical Appointments. An employee shall be allowed up to two (2) hours for each occasional appointment without charge to sick leave for personal or family-member medical, dental or optical examination or treatment. An appointing authority may limit the frequency that this rule may be used by an employee. (4-5-85)

05. Notification. It is the responsibility of the employee to notify his or her supervisor as soon as possible in the event of sickness or injury which prevents the employee from reporting for duty. (4-5-85)

**241. WORKERS COMPENSATION AND DISABILITY.**

01. Use of Leave in a Workers Compensation Claim. In the event of a disability incurred on the job covered by workers compensation, the employee shall be given the choice of either 1) leave of absence without pay while receiving workers compensation; or 2) utilizing a portion of accrued sick leave to supplement workers compensation to maintain his or her regular salary. No appointing authority may require an employee to accept sick leave, vacation leave, or compensatory time off for overtime in lieu of workers compensation provided by law. Additionally, an employee may not waive his or her rights to workers compensation and cannot accept earned leave or other benefits in lieu thereof. (4-5-85)

02. Layoff After Six Months' Disability. If the employee becomes disabled, whether or not due to a workers compensation injury, and is unable to return to work after six (6) months' absence or when accrued sick leave has been exhausted, whichever is longer, the employee's position shall be declared vacant and the employee's name placed on a departmental layoff register (ref. Rule 101.01). The period of absence is not interrupted by the employee's full return to work for less than two consecutive work weeks. Return to work as part of a rehabilitation program does not interrupt the calculation of the period of absence. (7-1-93)

a. The disabled employee's retention points need not be calculated unless there are other employees on the departmental layoff register in the same class. The employee shall be entitled to reemployment preference pursuant to Rules 145 and 146 and reinstatement privileges provided under Rule 125 when released by his or her physician to return to work. (12-10-90)

b. The disabled employee's name shall not be certified from the layoff register until the state personnel director has been notified by the physician that the employee is able to return to work. (4-5-85)

**242. MATERNITY LEAVE.**

01. Use of Sick Leave. Disabilities caused or contributed to by pregnancy, child birth or related medical conditions are considered temporary disabilities and shall be treated as such for sick leave purposes. Maternity leave shall be granted under the same conditions and requirements as other compensable and non-compensable leave under these rules. (4-5-85)

02. Determination of Disability Period. The employee's physician shall be considered the sole authority in determining the disability period insofar as compensable sick leave is concerned. (4-5-85)

03. Additional Time Off. Maternity leave preceding and following the time that the employee is disabled shall be leave without pay unless the employee elects to use accrued vacation leave or compensatory time off for overtime. (4-5-85)

04. Right to Continue Working. 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. (4-5-85)

**243. FAMILY AND MEDICAL LEAVE.**

01. Applicability. The provisions of the federal Family and Medical Leave Act shall apply without regard to the exclusion for worksites employing less than fifty (50) employees in a seventy-five (75) mile area, and without the limitation on reinstatement of the highest-paid employees. (Ref. 29 U.S.C. 2601 et seq.). (7-1-94)

02. Return to Work Release. An employee shall provide a return to work release if, due to the nature of the health condition and the job: (7-1-94)

a. Light duty work or other accommodation is requested; or (7-1-94)

b. The agency, having a reasonable basis in fact to do so, requires assurance that returning to work would not create a significant risk of substantial harm to the employee or others. (7-1-94)

**244. SEPARATION UPON FAILURE TO RETURN TO WORK.**

Except for those employees placed on a layoff register as prescribed by Rule 241.02, an employee who has not returned to work after release by his or her physician shall be considered as having resigned. Such separation shall be treated as a voluntary resignation, and the employee shall remain eligible for reinstatement as provided under Rule 125. (4-5-85)

**245. -- 249. (RESERVED).**

**250. SPECIAL LEAVES.**

01. Leave of Absence Without Pay. (7-1-93)

a. Approval. An employee may, at the discretion of the appointing authority, be granted leave without pay for a specified length of time when such leave would not have an adverse effect upon the department. The request for leave must be in writing and must establish reasonable justification for approval. (4-5-85)

b. Reemployment. The appointing authority approving the leave of absence assumes full responsibility for returning the employee to the same position or to another position in a classification allocated to the same pay grade for which the employee meets minimum qualifications. (7-1-87)

c. Exhaustion of Accrued Leave. Whether the employee is required to exhaust accrued vacation leave, earned administrative leave or compensatory time off for overtime before commencing leave is the appointing authority's option. (7-1-87)

d. Resignation. If vacation leave, earned administrative leave and compensatory time off for overtime are not exhausted and the employee resigns from state service while on leave, he or she shall be paid for such accruals in accordance with Sections 67-5337 and 67-5329(3), Idaho Code. (7-1-87)

02. Leave of Absence to Assume a Nonclassified Position. (7-1-93)
- a. Approval. A leave of absence without pay may be granted to a classified employee to assume a nonclassified position in state service. Such leave of absence shall not extend beyond the time the employee would be eligible for reinstatement to classified service. (Ref. Rule 125.01.a.) (7-1-87)
- b. Credited State Service. An employee returning from a leave of absence granted to assume a nonclassified position shall be allowed classified credited state service for the leave in the class from which he or she was granted the leave of absence. Credit shall not exceed time limits established above. (4-5-85)
03. Leave Defaults. When an employee does not have accrued sick or vacation leave to cover an entire absence that is attributed to sick or vacation leave, respectively, the following leave types shall be used to the extent necessary to avoid leave without pay: accrued compensatory time; earned administrative leave; vacation. (7-1-87)
04. Military Leave with Pay. Employees who are members of the national guard or reservists in the armed forces of the United States who are directed by proper military authority to participate in ordered and authorized field training under the National Defense Act shall receive military leave with pay for a maximum fifteen (15) working days in any one (1) calendar year. Such leave is exclusive of vacation and sick leave and compensatory time off for overtime. (Ref. Section 46-216, Idaho Code). (4-5-85)
05. Military Leave Without Pay. An employee whose employment is reasonably expected to continue indefinitely, and who leaves his or her position either voluntarily or involuntarily in order to perform active military duty, has reemployment rights as defined in Rule 125.04. The employee shall either be separated from state service or placed in "inactive" status, at the option of the appointing authority. (12-10-90)
06. Administrative Leave with Pay. At the discretion of the appointing authority, an employee may be granted administrative leave with pay when such leave is in the best interest of the department. (4-5-85)
07. Earned Administrative Leave. (7-1-93)
- a. Authority for Use. In any week that an employee would be compensated an amount greater than forty (40) hours times the employee's regular rate of pay, an appointing authority may allow the employee to accumulate earned administrative leave to the extent necessary to reduce the cash compensation to forty (40) hours. An appointing authority may allow a part-time employee to accumulate earned administrative leave for the hours worked between the regularly-scheduled hours and forty (40) hours. (7-1-87)
- b. Ineligible Employees. Employees who are ineligible for cash compensation and compensatory time for overtime work are ineligible for earned administrative leave. (Ref. Section 67-5329(1), Idaho Code). (12-10-90)
- c. Payment and Credited State Service. Earned administrative leave balances shall be paid upon transfer or separation. When taken, hours of EAL shall accrue credited state service, as well as sick and vacation leave. (7-1-87)
08. Court and Jury Services and Problem-Solving and Due Process Leave. (7-1-97)T
- a. Connected with Official State Duty. When an employee is subpoenaed or required to appear as a witness in any judicial or administrative proceeding in any capacity connected with official state duty, he or she shall not be considered absent from duty. The employee shall not be entitled to receive compensation from the court. Expenses (mileage, lodging, meals, and miscellaneous expenses) incurred by the employee shall be reimbursed by his or her respective department in accordance with state travel regulations. (12-10-90)
- b. Private Proceedings. When an employee is required to appear as a witness or a party in any proceeding not connected with official state duty, the employee shall be permitted to attend. Department policy shall determine whether the employee is required to use accrued leave or leave without pay. (12-10-90)
- c. Jury Service. When an employee is summoned by proper judicial authority to serve on a jury, he or



she shall be granted a leave of absence with pay for the time which otherwise the employee would have worked. The employee shall be entitled to keep fees and mileage reimbursement paid by the court in addition to salary. Expenses in connection with this duty are not subject to reimbursement by the state. (7-1-87)

d. Problem-solving and due process procedures. Any employee who has been requested to serve as a mediator as provided by a departmental problem-solving or due process procedure or to appear as a witness or representative during such a proceeding shall be granted leave with pay, without charge to vacation leave or compensatory time off for overtime, to perform those duties. (7-1-97)T

e. Notification. An employee summoned for court and jury service or requested to serve as a grievance panelist, witness, or representative shall notify his or her supervisor as soon as possible to obtain authorization for leave of absence. (7-1-87)

09. Election Leave. When requested by an employee, an appointing authority shall grant leave with pay, without charge to vacation leave or compensatory time off for overtime, for voting in primary, general, municipal, school, or special elections in those instances where the employee's work would interfere with his or her being able to vote. (4-5-85)

10. Religious Leave. Appointing authorities shall make reasonable accommodations to an employee's need for leave for religious observances. Such leave shall be charged to the employee's accrued vacation leave or compensatory time off for overtime. (4-5-85)

11. Leave During Facility Closure or Inaccessibility. (7-1-93)

a. Authorization. When a state facility is closed or declared inaccessible because of severe weather, civil disturbances, loss of utilities or other disruptions, affected employees shall be authorized administrative leave with pay (ref. Rule 250.06) to cover their scheduled hours of work during the closure or inaccessibility. (4-5-85)

b. Compensation for Extra Hours Worked. An employee who works at a state facility during declared closure or inaccessibility shall be, in addition to regular salary, granted time off equal to the number of hours worked. If overtime is involved, it shall be compensated as provided by Section 67-5329, Idaho Code. (4-5-85)

c. Early Release. When a severe storm occurs during the day, and the appointing authority or designated representative authorizes early release of employees, the resulting time off shall be charged to administrative leave with pay. (ref. Rule 250.06) (4-5-85)

**251. -- 259. (RESERVED).**

**260. OVERTIME.**

01. Employing Agencies. The state is considered as one (1) employer for determining the number of hours an employee works. If an employee works for more than one (1) department, the department(s) employing the employee when the overtime occurs shall be liable for compensatory time off or cash compensation as provided by law. (7-1-87)

02. Compensation for Overtime. Overtime accrual and compensation for classified employees is covered by Sections 67-5329 and 67-5330, Idaho Code, and Section 59-1607 for nonclassified employees. Overtime is defined in Section 67-5302(18), Idaho Code. (7-1-87)

03. Modification of Workweek or Schedule. No department shall alter a previously established work week for the purpose of avoiding overtime compensation. A department may modify the employee's regular schedule of work to avoid or minimize overtime. (7-1-87)

04. Ineligible Employees. In addition to those classified employees ineligible for cash compensation or compensatory time for overtime defined in Section 67-5329(1), Idaho Code, the following classified employees are also ineligible: (4-5-85)

- a. Deputy Directors. A deputy or assistant department director or equivalent. (4-5-85)
- b. Division Administrators. A deputy or assistant division administrator or equivalent. (4-5-85)

**261. -- 269. (RESERVED).**

**270. RULEMAKING.**

- 01. Petitions for Rulemaking. Persons interested in petitioning for rulemaking shall comply with IDAPA 04.11.01.820 through 822. (7-1-94)
- 02. Appeal Right. If a petition for rulemaking is denied, the written denial shall include a statement of the right to appeal under Section 67-5316, Idaho Code. (7-1-93)

**271. DECLARATORY RULINGS**

- 01. Petition. Persons interested in petitioning for a declaratory ruling shall comply with IDAPA 04.11.01.400 through 402. (7-1-94)
- 02. Appeal Right. The decision on the declaratory ruling shall include a statement of the right to appeal under Section 67-5316, Idaho Code. (7-1-93)

**272. -- 999. (RESERVED).**