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**IDAPA 55
TITLE 01
Chapter 05**

**55.01.05 - REDUCTION OF POSTSECONDARY VOCATIONAL AND
APPLIED TECHNOLOGY EDUCATION PROGRAMS**

000. LEGAL AUTHORITY.

The State Board of Education is designated as the State Board for Vocational Education and is responsible for carrying out federal provisions (Idaho Code 33-2202 through 33-2212). The State Board delegates responsibility for administration of vocational-technical education to the State Division of Vocational Education. (1-26-95)

001. TITLE AND SCOPE.

This rule defines the procedures which govern the reduction of postsecondary Vocational and Applied Technology Education programs. (1-26-95)

002. WRITTEN INTERPRETATIONS.

003. ADMINISTRATIVE APPEALS.

004. DEFINITIONS.

SBE is the State Board of Education, SBVE is the State Board for Vocational Education, SDVE is the State Division of Vocational Education; AAS is an Associate of Applied Science degree, EITC is Eastern Idaho Technical College in Idaho Falls, ICPS is the Idaho Classified Personnel System, IPC is the Idaho Personnel Commission. (1-26-95)

005. -- 099. (RESERVED).

100. STATEMENT OF PURPOSE.

The Idaho State Board of Vocational Education (SBVE) sets forth the following conditions and procedures for the reduction of postsecondary vocational-technical programs. This rule specifically applies to reductions in postsecondary Vocational and Applied Technology Education programs and to the extent there is a conflict between these rules and the Administrative Rules of the Board of Education, IDAPA 08.01, et seq, these rules supersede and shall be given priority over said Administrative Rules of the State Board of Education (SBE). (1-26-95)

101. CONDITIONS OF REDUCTION.

Any Postsecondary Applied Technology/Vocational Education program is subject to reduction when one (1) or more of the following conditions exist: (1-26-95)

01. Inadequate Job Opportunities. Adequate job opportunities no longer exist in the occupation for which the training is provided (as exhibited by local, regional and statewide employment data) to justify continued operation of a program at its current level. (1-26-95)

02. Inadequate Student Enrollment. Student enrollment is below an acceptable standard for two (2) consecutive years. (Standard to be predetermined at the local level based on facilities requirements, equipment needs, and an acceptable student/teacher ratio.) Seventy-five percent (75%) of capacity is considered a generally acceptable standard. (1-26-95)

03. Inadequate Job Placement. Job placement of completers available for employment in the occupation for which training is provided is below seventy-five percent (75%) for two (2) consecutive years. Job placement will be assessed through the statewide follow-up system. (1-26-95)

04. Inadequate Completion Rate. For two (2) consecutive years, full-time AAS degree programs/options and certificate programs/options have less than a fifty percent (50%) completion rate. (1-26-95)

05. Inadequate Need Based On Assessment. Current statewide Needs Assessment/Strategic Plan places reduced emphasis on training in the occupation for which the program prepares students. (1-26-95)

06. Inadequate Finances. A condition of financial exigency prevents the continuation of a quality program at its current level of operation. (1-26-95)

102. PROCEDURES FOR REDUCTION.

The following procedures will govern the reduction of Postsecondary Applied Technology/Vocational Education programs: (1-26-95)

01. Notice of Initiation. Formal notice of initiation of program review proceedings will be provided to the local dean/director by the State Division of Vocational Education (SDVE); or when the proceedings are initiated locally, the local Dean/Director will notify the SDVE. (1-26-95)

02. Official Documentation. Official documentation that one (1) or more of the conditions stated in Section 101 exists. This documentation will be provided through the joint efforts of local personnel and the SDVE. (1-26-95)

03. Official Recommendation. Official recommendation for program reduction will be presented by the SDVE to the SBVE for final action. (1-26-95)

04. Notification of Employees. The postsecondary institution will immediately notify the employees affected by the program reduction of the SBVE's action. (1-26-95)

05. Vacated Positions. The vacated position(s) will remain with the postsecondary institution if appropriate reallocation is justified. Positions left vacated more than twelve (12) months are subject to reallocation within the state system or elimination. (1-26-95)

06. Transfer of Program. Upon written request by the postsecondary institution, assessment will be made by the SDVE to determine the feasibility of transferring the program, position(s), equipment, etc., affected by the reduction to another postsecondary institution. (1-26-95)

07. Disposal of Excess Instructional Equipment. On approval of the SDVE, any excess instructional equipment associated with a program reduction will be disposed of in one (1) or more of the following ways: (1-26-95)

a. Transfer to another postsecondary program/institution that has the same or similar program in place and has need for such equipment. (1-26-95)

b. Transfer to other Applied Technology/Vocational programs within the state (secondary and/or postsecondary). (1-26-95)

c. Sale of the equipment on the open market. Proceeds of such a sale shall be utilized for capital outlay. Disposition of equipment must follow established SBVE policies. (1-26-95)

d. Trade-in on other Applied Technology/Vocational equipment purchases. (1-26-95)

08. Actual Program Reduction. The actual program reduction will take place upon completion of the school year in which the reduction was approved. (1-26-95)

103. FACULTY AND STAFF REDUCTION PROCEDURES.

01. Reduction Procedures. The Institution, after consultation with appropriate faculty, professional staff, and classified personnel, must prepare and recommend to the SDVE a plan consisting of various alternatives to implement program reduction and staff reduction procedures. When developing this plan, consideration must be given to the necessity and manner of reducing the employment force and the criteria for identifying the employees who are to be laid off. The SDVE must consider and approve a program to implement its decision prior to the effective date of any layoffs. (1-26-95)

a. Reductions in force will be done equitably, in good faith, and in a systematic manner. (1-26-95)

b. The Institution may establish a committee to advise the Dean/Director on the need for program reduction and the possible remedies therefore. (1-26-95)

02. Staff Reduction Criteria. In making any staff reduction recommendation, the Institution must utilize as the first criterion the preservation of the quality and effectiveness of its programs. Those employees who are deemed to be of key importance to the specific program will be retained in preference to other employees, whatever their status. Programs, for the purposes of this subsection, include, but are not limited to, vocational-technical, academic, non-instructional, maintenance, administrative, and other support areas. Other criteria that must be considered include, but are not limited to, tenure if applicable, rank if applicable, time in rank if applicable, length of service, field of specialization, maintenance of necessary programs or services, maintenance of affirmative action programs, and quality of service and work. (1-26-95)

03. Notice. Any layoff may be of severe economic and personal loss to the employee. Therefore, within the time frame provided herein, the Institution must give notice in writing to employees who are affected by a program reduction. (1-26-95)

- a. Form of notice. The notice must include the following; (1-26-95)
 - i. The effective date of layoff; (1-26-95)
 - ii. A statement of the reasons for the action to eliminate or reduce the size of the program; (1-26-95)
 - iii. The basis, the procedures, and the criteria used to layoff an employee; (1-26-95)
 - iv. Any opportunity for appeal of the initial recommendation and access to appropriate documentation; (1-26-95)
- and
- v. The reinstatement rights of the employee. (1-26-95)

b. Time of notice. The Institution will make every effort to give as much notice as practical to each affected employee in advance of the effective date of the layoff. The SBVE requires the following minimum written notice of layoff: (1-26-95)

- i. To employees subject to the Idaho Classified Personnel System (ICPS), not less than sixty (60) calendar days before the effective date of layoff. (1-26-95)
- ii. To exempt employees serving under a contract of employment for a fixed term, not less than sixty (60) calendar days before the effective date of layoff. (1-26-95)
- iii. To faculty members occupying faculty positions, a notice of the effective date of the layoff being not less than sixty (60) calendar days prior to the end of the semester in which the reduction/termination is declared. (1-26-95)
- iv. To employees serving at the pleasure of the SBVE thirty (30) calendar days before the effective date of the layoff. (1-26-95)

04. Relocation. At the time it is preparing and implementing a program reduction the Institution shall, to the extent practicable, make a good faith effort to relocate any employee to be laid off in a suitable vacant position within the Institution for which that employee is fully qualified. Except when required by the rules of the Idaho Personnel Commission (IPC) applicable to employees subject to the ICPS, an employee to be laid off has no right to bump another employee from a position to maintain employment. This good faith effort to relocate an employee need not extend beyond the effective date of the layoff, but the employee does enjoy the layoff roster rights provided herein. (1-26-95)

05. Appeal Rights. (1-26-95)

a. Classified employees. A layoff of employees subject to the ICPS is a grievable matter, but unless otherwise required by law or regulation, the grievance procedure does not delay the effective date of the layoff. The decision of the institution's President (EITC Director) is final and not appealable to the SBVE. (1-26-95)

b. Non-faculty/non-classified employees. In most instances, a reduction in force of employees serving under a contract of employment for a fixed term will be accomplished by non-renewal of the contract of employment rather than by layoff during the term of employment. Non-renewal under these circumstances is not appealable within the Institution nor is it appealable to the SBVE. In the event an employee serving under a contract of employment for a fixed term is laid off during the term of employment, that employee is entitled to use the Institution's appeal procedures. The employee must notify the Dean and the President (EITC Director) in writing, within fifteen (15) days of the receipt of the notice of layoff, of his/her intent to use the Institution's appeal procedure. The decision of the President following the appeal procedure is final and not appealable to the SBVE. Use of the internal appeal procedure does not delay the effective date of layoff. (1-26-95)

c. Employees serving at the pleasure of the SBVE. A decision to layoff employees serving at the pleasure of the Board in furtherance of a reduction in force is not appealable. (1-26-95)

d. Faculty. Faculty members occupying faculty positions when laid off are entitled to use the Institution's appeal procedure if the procedural requirements of requesting such are met. The employee must notify the Dean and the President (EITC Director) in writing within fifteen (15) days of the receipt of the notice of layoff of his/her intent to use the Institutions appeal procedure. The decision of the President (EITC Director), following the appeal procedure, is final and not appealable to the SBVE. (1-26-95)

06. Standard of Review. The sole basis on which to contest a layoff of employees subject to the ICPS is compliance with the rules of the IPC, where applicable, and compliance with the rules and the program for reduction in force approved by the SBVE. The sole basis to contest a layoff of faculty members and non-faculty/non-classified employees serving under a contract of employment for a fixed term is compliance with the SBVE rules and the program for reduction in force approved by the SBVE. (1-26-95)

07. Reinstatement. (1-26-95)

a. Layoff roster for classified employees. When laying off employees subject to the ICPS, the Institution must prepare and distribute a listing of retention point scores of employees and classes to be affected by the layoff as required by the rules of the IPC. The IPC will maintain the layoff roster. A classified employee reinstated from a layoff roster will be paid at a pay grade and step consistent with the rules of the IPC in effect at the time of reinstatement. (1-26-95)

i. An employee who is laid off may continue to contribute toward and receive the benefits of any State insurance program if the laws, rules, regulations, policies, and procedures governing the administration of such insurance program so permit. (1-26-95)

ii. An employee who has been laid off and who accepts reemployment must be credited with any sick leave which the employee had accrued as of the date of layoff, and with any annual leave which the employee had accrued as of the date of layoff and for which the employee has not received payment. (1-26-95)

b. Reinstatement rights for tenured faculty. In cases of layoff of tenured faculty members occupying faculty positions, the position concerned may not be filled by replacement within a period of three (3) years from the effective date of the layoff unless the tenured faculty member has been offered a return to employment in that position and has not accepted the offer within thirty (30) calendar days after the offer was extended. (1-26-95)

i. If an offer of reinstatement is not accepted, the tenured faculty member's name may be deleted from the reinstatement list, and, if so deleted, the Institution and the SBVE have no further obligation to the faculty member. (1-26-95)

ii. A tenured faculty member who is laid off may continue to contribute toward and receive benefits of any State insurance program if the laws, rules, regulations, policies, and procedures governing the administration of such insurance program so permit. (1-26-95)

iii. A tenured member of the faculty who has been laid off and who accepts reemployment at the Institution will resume tenure and the rank held at the time of layoff, be credited with any sick leave accrued as of the

date of layoff, be paid a salary commensurate with the rank and length of previous service, and be credited with any annual leave which the employee has accrued as of the date of layoff, and for which the employee has not received payment. (1-26-95)

c. Reinstatement rights for non-tenured faculty and non-faculty/non-classified employees. In cases of layoff of non-tenured faculty members occupying faculty positions, and non-faculty/non-classified employees occupying positions not subject to the ICPS, the position concerned may not be filled by replacement within a period of one (1) year from the effective date of the layoff unless the employee has been offered a return to employment in that position and the employee has not accepted the offer within thirty (30) calendar days after the offer was extended. (1-26-95)

i. If an offer of reinstatement is not accepted, the employee's name may be deleted from the reinstatement list and, if so deleted, the Institution and the Board have no further obligation to the employee. (1-26-95)

ii. A non-tenured faculty member, or a non-faculty/non-classified employee who is laid off may continue to contribute toward and receive the benefits of any State insurance program if the laws, rules, regulations, policies, and procedures governing the administration of such insurance program so permit. (1-26-95)

iii. A non-tenured member of the faculty who has been laid off and who accepts reemployment at the institution will resume the rank (if applicable) held at the time of layoff, be credited with any sick leave accrued as of the date of layoff, be paid a salary commensurate with the rank and length of previous service, and will be credited with any annual leave which the employee had accrued as of the date of layoff and for which the employee has not received payment. (1-26-95)

iv. A non-faculty/non-classified employee who has been laid off and who accepts reemployment at the Institution will be credited with any sick leave the employee had accrued as of the date of layoff, paid a salary commensurate with the length of previous service, and credited with any annual leave which the employee had accrued as of the date of layoff and for which the employee has not received payment. (1-26-95)

104. -- 999. (RESERVED).