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**IDAPA 59
TITLE 01
CHAPTER 05**

**59.01.05 - SEPARATION FROM SERVICE RULES FOR THE PUBLIC EMPLOYEE
RETIREMENT SYSTEM OF IDAHO (PERSI)**

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

000. LEGAL AUTHORITY (RULE 0).

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

001. TITLE AND SCOPE (RULE 1).

The title of this chapter is PERSI Separation from Service Rules. (1-1-94)

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

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

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

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

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

003. ADMINISTRATIVE APPEAL (RULE 3).

Administrative appeals are conducted pursuant to PERSI Rules of Administrative Procedure, IDAPA 59.01.01, Rules 101 through 104 and 150 through 789. (1-1-94)

004. PUBLIC RECORDS ACT COMPLIANCE (RULE 4).

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

005. DEFINITIONS (RULE 5).

PERSI adopts through incorporation by reference as if set forth fully herein all of the definitions listed in Eligibility Rules of the Public Employee Retirement System of Idaho, IDAPA 59.01.02, Rule 5. (1-1-94)

006. CITATION (RULE 6).

The official citation of this chapter is IDAPA 59.01.05.000, et seq. For example, this section's citation is IDAPA 59.01.05.006. In documents submitted to PERSI or issued by PERSI these rules may be cited as PERSI Separation Rule and action number less leading zeros. For example, this rule may be cited as PERSI Separation Rule 6. (1-1-94)

007. EFFECTIVE DATE (RULE 7).

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

008. -- 099. (RESERVED).

Subchapter B -- General Members
Rule 100 through 250

100. REPAYMENT OF SEPARATION BENEFITS -- EMPLOYEE STATUS (RULE 100).

Repayment of a separation benefit must commence while the member is an employee, as defined in Section 59-1302(14), Idaho Code. For purposes of this rule the term employee includes employees accruing benefits under the Department of Employment Retirement Plan, the Firefighters' Retirement Fund, the Policeman's Retirement Fund, and the Optional Retirement Program.

Statutory Reference: Section 59-1360, Idaho Code. (1-1-94)

101. INTEREST ACCRUAL AND CALCULATION ON SEPARATION BENEFITS (RULE 101).

Repayment of separation benefits as provided in Section 59-1360, Idaho Code, for employees whose most recent date of reemployment is after January 23, 1990, shall include payment of interest that shall accrue from the date each separation benefit was issued. Repayment of separation benefits as provided in Section 59-1360, Idaho Code, for employees whose most recent date of reemployment is before January 23, 1990, shall include payment of interest as determined by the law, statutes and rules in effect on the date of last reinstatement to employee status, except as provided in Rule 102, of this chapter.

Statutory Reference: Section 59-1360, Idaho Code. (1-1-94)

102. REPAYMENT OF SEPARATION BENEFITS BY EMPLOYEES PREVIOUSLY PRECLUDED FROM REPAYMENT (RULE 102).

Any employee who was precluded from repaying a separation benefit due to the fact they failed to meet the requirements of Section 59-1360, Idaho Code (previously 59-1307, Idaho Code), because they: Failed to repay the benefit within six (6) months, as the law required between July 1, 1963 and July 1, 1971; Failed to repay the benefit within two (2) years, as the law required between July 1, 1971 and March 15, 1976; Had more than five (5) years between periods of employee status, as the law provided between July 1, 1963 and July 1, 1971; and/or Had more than ten (10) years between periods of employee status, as the law provided between July 1, 1971 and July 1, 1991; may reinstate their previous credited service by repaying the full amount of their accumulated contributions provided such repayment includes payment of regular interest accruing from the date of each such separation benefit payment.

Statutory Reference: Section 59-1360, Idaho Code. Cross References: 59.01.07.100. (1-1-94)

103. METHODS OF REPAYMENT OF SEPARATION BENEFITS (RULE 103).

01. Periodic and Lump-Sum Payments. Where an active member elects to repay a separation benefit to reinstate previous service as provided in Section 59-1360, Idaho Code, the member may request that repayment be made in periodic payments or in a lump-sum payment. No service will be reinstated until the full repayment has been made. (3-30-01)

02. Repayments Initiated on or After March 1, 2000. For all repayments initiated on or after March 1, 2000, except as provided in Rule 101 of this chapter, a repayment amount will be determined which shall be the sum of the separation benefit(s) plus regular interest from the date of the benefit payment(s) until the date of the first payment. The repayment amount will be amortized over the repayment period at the reinstatement rate in effect on the date of the first periodic payment. (3-30-01)

03. Repayments Initiated Before March 1, 2000. For all periodic repayments initiated before March 1, 2000, a repayment amount will be determined which shall be the sum of the separation benefit(s) plus regular interest from the date of the benefit payment(s) until the date of the first payment. The repayment amount will be amortized over the repayment period at four point seventy-five percent (4.75%) interest. This is a grandfathered rate based on the rate in effect December 31, 1999, and will apply so long as payments exceed interest charges on a calendar year basis. If payments fail to exceed interest charges in any calendar year, the grandfathered rate will be

forfeited and replaced by the reinstatement rate beginning in January immediately after the year in which the failure occurs. For purposes of these rules, a repayment is initiated by signing an agreement and making a payment. (3-30-01)

104. EMPLOYER "PICKUP" OF REINSTATEMENT PAYMENTS (RULE 104).

01. Periodic Pre-Tax Payments. Payroll deduction payments may be made pre-tax under the employer pickup provision referenced in Section 59-1332, Idaho Code, only if the member authorizes an irrevocable payroll deduction. Once executed, the deduction cannot be changed or revoked. If the member terminates employment the member may continue making payments directly to PERSI but they will not be considered pre-tax until they are picked up by a subsequent irrevocable payroll deduction, approved by PERSI, and executed with another PERSI employer. (3-30-01)

02. Multiple Irrevocable Payroll Deductions. Members who have previously authorized an irrevocable payroll deduction for purposes of making periodic pre-tax payments to reinstate previous credited service as provided in Section 59-1360, Idaho Code, may increase repayments by executing additional irrevocable payroll deductions to supplement the previously authorized deductions so long as the previous irrevocable deductions are not modified or terminated. (3-30-01)

105. IN-SERVICE TRANSFERS TO REINSTATE SERVICE (RULE 105).

To the extent permitted by federal law, and in accordance with any regulation or other guidance issued by the Internal Revenue Service, an active member may transfer funds from a 401(k), a 403(b), or an eligible 457(b) plan, in which they are currently eligible to participate, to the Base Plan for purposes of buying back service previously forfeited due to receiving a separation benefit, purchasing service related to eligible waiting periods, or purchasing service for periods of delinquent contributions. (5-3-03)

106. -- 123. (RESERVED).

124. ROLLOVERS ACCEPTED INTO THE BASE PLAN (RULE 124).

The PERSI Base Plan will accept participant rollover contributions and direct rollovers of distributions made after December 31, 2001, for purposes of reinstating or purchasing service as permitted under the plan, from the following plans. No after-tax contributions may be rolled over into the Base Plan. (5-3-03)

01. Qualified Plans. A qualified plan described in section 401(a) or 403(a) of the Internal Revenue Code (Code). (5-3-03)

02. Annuity Contracts. An annuity contract described in section 403(b) of the Code. (5-3-03)

03. 457 Plans. An eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. (5-3-03)

04. IRAs. Any portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the Code that is eligible to be rolled over and would otherwise be includible in gross income. (5-3-03)

125. DIRECT ROLLOVERS OUT OF THE BASE PLAN (RULE 125).

A direct rollover is a payment by the plan to an eligible retirement plan specified by the distributee. (5-3-03)

01. Rollover Election. This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this part, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution that is equal to at least five hundred dollars (\$500) paid directly to an eligible retirement plan specified by the distributee in a direct rollover. (5-3-03)

02. Eligible Rollover Distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: (5-3-03)

a. Any distribution that is one (1) of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; (5-3-03)

b. Any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code (Code); (5-3-03)

c. Any amount that is distributed on account of hardship; (5-3-03)

d. The portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and (5-3-03)

e. Any other distribution(s) that is reasonably expected to total less than two hundred dollars (\$200) during a year. (5-3-03)

03. After-Tax Contributions. For purposes of the direct rollover provisions in Subsection 125.02, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to separately account for the amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. (5-3-03)

04. Eligible Retirement Plan. An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, an annuity contract described in section 403(b) of the Code, an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan, or a qualified plan described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. (5-3-03)

05. Alternate Payees. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse, who is the alternate payee under a domestic retirement order, approved as provided in Sections 59-1319 and 1320, Idaho Code, are distributees with regard to the interest of the spouse or former spouse. (5-3-03)

126. REQUIRED MINIMUM DISTRIBUTIONS (RULE 126).

01. Default Application of Federal Requirements. With respect to distributions under the Base Plan made in calendar years beginning on or after January 1, 2001, and except as provided in Subsection 126.02, the Plan will apply the minimum distribution requirements of section 401(a)(9) of the Internal Revenue Code (Code) in accordance with the regulations under section 401(a)(9) that were proposed in January 2001, notwithstanding any provision of the Plan to the contrary. This amendment shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations under section 401(a)(9) of the Code or such other date specified in guidance published by the Internal Revenue Service. (5-3-03)

02. Death Benefits. All death benefits payable under the Base Plan will be distributed as soon as administratively practicable after request, but must in any event be distributed within fifteen (15) months of the member's death, unless the identity of the beneficiary is not ascertainable. (5-3-03)

127. -- 999. (RESERVED).

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