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IDAPA 15
TITLE 04
CHAPTER 01

IDAPA 15 - OFFICE OF THE GOVERNOR

DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION

15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES AND IDAHO PERSONNEL COMMISSION

000. LEGAL AUTHORITY.
The rules of the Division of Human Resources and Idaho Personnel Commission are adopted pursuant to Section 67-5309, Idaho Code. The Division of Human Resources and Idaho Personnel Commission shall perform such duties and exercise such authority as has been or may be conferred upon them by law. The Division shall determine the policies of the Idaho Personnel System and make such rules as are necessary for the administration of the Personnel System. The administrator of the Division shall be appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor pursuant to Section 67-5308(2), Idaho Code. (3-30-01)

001. TITLE, SCOPE, AND COMPLIANCE.

01. Title. These rules shall be cited as IDAPA 15.04.01, "Rules of the Division of Human Resources and Idaho Personnel Commission". (3-16-04)

02. Scope. These rules establish the policies and procedures of the Idaho Personnel System. (3-30-01)

03. Compliance. In accordance with the Legislature's intent in creating the Idaho Personnel Act and for consistency in rule administration, appointing authorities shall ensure that staff with human resource management responsibilities adhere to these administrative rules. Any person willfully violating provisions of the Idaho Personnel System or the rules established in this chapter, may be subject to discipline, up to and including dismissal under Rule 190, and/or sanctions provided in Section 67-5312, Idaho Code. (3-16-04)

002. WRITTEN INTERPRETATIONS.
As described in Section 67-5201(19)(b)(iv), Idaho Code, the Division of Human Resources may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Division of Human Resources, 700 West State Street, Boise, Idaho 83720-0066. (3-30-01)

003. CITATION OF RULES.
The official citation of the Division of Human Resources and Idaho Personnel Commission's (the "Commission") rules is, for example, IDAPA 15.04.01.072.01. An informal reference may be made to "Rule 072.01". (3-16-04)

004. ADDRESS AND PHONE NUMBERS OF THE DIVISION OF HUMAN RESOURCES AND IDAHO PERSONNEL COMMISSION.
The offices of the Division of Human Resources and Idaho Personnel Commission are located at 700 West State Street, Boise, Idaho. The mailing address is PO Box 83720, Boise, ID 83720-0066. The office telephone number is (208) 429-5500 and the toll-free number is 1-800-554-JOBS (5627). The office FAX number is (208) 334-2438 and e-mail address is idhr@idhr.idaho.gov. (8-24-08)T

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 administrator 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 administrator reserves the right to waive any rule in specific instances when, in his/her opinion, such waivers are legal, warranted and justified in the interests of a more effective and responsive system of personnel administration. (3-30-01)

007. DESIGNATION OF OFFICERS.
The chair of the Idaho Personnel Commission shall be appointed by the Governor pursuant to Section 67-5307(3), Idaho Code. At its first meeting each calendar year, the Commission shall designate a vice-chair for the ensuing year. (3-16-04)

008. APPLICABILITY TO HEALTH DISTRICTS.
These rules apply to Public Health Districts even though specific references are to state employment. (3-16-04)

009. DUTIES OF THE ADMINISTRATOR.
In addition to other duties as assigned by law, the administrator shall provide administrative support to the Idaho Personnel Commission, shall have custody of the books and records of the Division of Human Resources and the Commission, and shall maintain a record of the proceedings before the Commission and its hearing officers. (3-16-04)

010. DEFINITIONS -- A THROUGH E.
Each of the terms defined in these rules have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (7-1-87)

01. Administrator. The Administrator of the Division of Human Resources in the Office of the Governor or delegate for those responsibilities assigned by the administrator to a specific appointing authority. (8-24-08)T

02. Agency Classification. A classification of positions unique to an agency. (8-24-08)T

03. Allocation. The assignment of a classification to a pay grade in the compensation schedule. (3-16-04)

04. Appeal. Any written request for relief from dismissal, demotion, suspension, or other adverse action filed with the Commission by an employee, appointing authority, or applicant. The meaning of appeal includes application, petition, or protest. (3-16-04)

05. Appellant. An employee, appointing authority, or applicant filing an appeal or a petition for review with the Commission. (3-16-04)

06. Appointing Authority. The officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to hire, dismiss or otherwise significantly impact the employment status of individuals in any agency. (Ref. Section 67-5302(3), Idaho Code) (8-24-08)T

07. Appointment, Limited. The appointment of a person to a classified, position where the work is projected to be of limited duration, for which the person has qualified by examination. (3-16-04)

08. 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)

09. Appointment, Permanent. The appointment of a person to a classified position who has been certified by the appointing authority to have successfully completed the required probationary period and whose employment is permanent, subject to removal or discipline only under the provisions of Title 67, Chapter 53, Idaho Code, and the rules of the Division of Human Resources and Idaho Personnel Commission. (3-16-04)

10. 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)

11. Appointment, Project Exempt. The appointment of a person to a nonclassified position established under federal grants, which by law restricts employment eligibility to specific individuals or groups on the basis of non-merit selection requirements. (Ref. Section 67-5303(m), Idaho Code) (3-16-04)

12. 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 classification of such position. (3-16-04)

13. Appointment, Seasonal. An appointment to a regular position in classified service with intermittent work periods. (Ref. Section 67-5302(31), Idaho Code) (3-16-04)

14. Appointment, Temporary. The appointment of a person to a nonclassified position which is of a limited duration, and in which hours worked will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period for any one (1) agency. Temporary appointments may occur for intermittent periods of time and include recurring assignments. (Ref Section 67-5302(33), Idaho Code) (8-24-08)T

15. Base Pay. The rate paid for performing a job, excluding bonuses, shift differentials, overtime or other compensation premiums. (8-24-08)T

16. Certifiable Range. An examination score and a rank on an eligibility register sufficiently high to be among the top ten (10) available names, plus names of all individuals with scores identical to the tenth ranking eligible, for certification to fill a position in the classification for which the register was established. (3-16-04)

17. Classified Service. That body of positions in state agencies subject to Title 67, Chapter 53, Idaho Code, as defined therein and excludes temporary, project exempt, and nonclassified appointments. (8-24-08)T

18. Commission. As utilized in these rules, refers to the Idaho Personnel Commission as established in Section 67-5307, Idaho Code. (8-24-08)T

19. Compensation Plan. The overall system of salary administration for classified service including Sections 67-5309B and 67-5309C, Idaho Code; the classification and compensation schedules, Division of Human Resources and Idaho Personnel Commission rules and policies, and agency policies governing employee pay. (8-24-08)T

20. Compensation Schedule. The pay grades established by the Division of Human Resources and associated rates of pay. (Ref. Section 67-5309C, Idaho Code) (8-24-08)T

21. Consultant. An independent contractor who provides professional or technical advice, counsel, or service. (Ref. Rule Section 050) (8-24-08)T

22. Dismissal. The separation of an employee from classified service with cause assigned by the appointing authority pursuant to Section 190 of these rules. (8-24-08)T

23. Due Process. As related to Idaho's Personnel System for permanent classified employees, the activities required to address an individual's constitutional right to notice and an opportunity to be heard. (Ref. Section 67-5315, Idaho Code). (3-16-04)

24. Employment History. The information available to the public without the employee's consent in accordance with Section 9-340(C), Idaho Code, for every agency for which a current or former public official works, including the official reasons for separation from employment but not including accrued leave balances or usage. (8-24-08)T

25. 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)

011. DEFINITIONS -- F THROUGH J.
Each of the terms defined in these rules will 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. (8-24-08)T

01. General Classification. A classification of positions that is common to more than one (1) participating agency. (8-24-08)T

02. Good Cause. The conduct of a reasonable person in the same or similar circumstances. (7-1-87)

03. Hay Method. A methodology for establishing the relative value of jobs and used as a dimension of the pay system. (8-24-08)T

04. Hiring List. A hiring list is a subset of a register consisting of the top ten (10) individuals on the register, plus all individuals tied for the tenth position, certified as eligible for a specific recruitment. Candidates for reinstatement or transfer may be considered and are provided in addition to the top ten. (8-24-08)T

05. Incumbent. Any person holding a classified or non-classified position in state service. (7-1-87)

06. Independent Contractor. Any person, firm, or corporation meeting the Internal Revenue Service's test for an independent contractor or a self-employed person. (Ref. Rule Section 050) (3-16-04)

07. Involuntary Transfer. A significant change in work location, shift and/or organizational unit made as a result of a management decision as opposed to an employee's request or agreement to transfer. (3-30-01)

012. DEFINITIONS -- K THROUGH O.
Each of the terms defined in these rules will 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. (8-24-08)T

01. Key Employee. An individual specifically hired for an at-will or nonclassified position for which there is no, or only a limited, selection process. Examples may include a private secretary or deputy to an official who holds a confidential relationship to the appointing or employing officer. (Ref. Section 65-502(5), Idaho Code) (8-24-08)T

02. 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)

03. Light or Limited Duty. A general term describing a temporary limited assignment in relation to recovery from injury, illness or other limiting condition as approved by the appointing authority. (3-16-04)

04. Merit Increase. The advancement of an employee's compensation in accordance with Section 67-5309B, Idaho Code. (8-24-08)T

05. Merit Increase Matrix. A pay distribution tool used to advance employee pay based on performance and market data. (8-24-08)T

06. Military Duty. Training and service performed by an inductee, enlistee or reservist or any entrant into the armed forces of the United States, not including active duty training as a reservist in the armed forces of the United States or as a member of the National Guard of the United States, when the call is for training only. (Ref. Section 65-502(6), Idaho Code) (8-24-08)T

07. Minimum Qualification Specialty. A minimum qualification required for one (1) or more positions in a classification that is in addition to the other minimum qualifications required for all positions in the classification. (3-16-04)

08. 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)

09. On-Call Time. Time when an employee is required to carry a pager, cellular phone, or to leave word at home or with the agency where the employee may be reached if needed to work, and the employee can use the time effectively for personal purposes. (8-24-08)T

013. DEFINITIONS -- P THROUGH Z.
Each of the terms defined in these rules will 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. (8-24-08)T

01. Pay Line Exception. A temporary assignment of pay grade, pursuant to Section 67-5309D, Idaho Code, in excess of the pay grade allocated pursuant to Section 67-5309B, Idaho Code, as approved by the administrator. (8-24-08)T

02. Permanent Employee. An employee in the classified service who has successfully completed entrance probation. Permanent employees remain subject to separation as set forth in these rules and Section 67-5309(n), Idaho Code. (8-24-08)T

03. Promotion. The advancement through the competitive process of an employee with permanent status from a position which he occupies in one (1) classification to a position in another classification having a higher paygrade. (8-24-08)T

04. Reduction in Pay. A reduction of an employee's salary from one (1) pay rate to a lower rate within the pay grade to which the employee's classification is allocated. (3-16-04)

05. Register. A list of names of persons or the name of one (1) person who has been determined to be eligible for employment in a classification on the basis of examination and merit factors as established by the administrator. An adequate register lists at least five (5) names of eligible candidates currently available for consideration for each vacancy in the classification for which the register was established. (3-16-04)

06. Resignation. The voluntary quitting or abandonment of state employment, excluding retirement. (8-24-08)T

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

08. 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 Section 190 of these rules. (8-24-08)T

09. Termination. The separation of an entrance or voluntary probationary employee from classified service for unsatisfactory service during the probationary period without cause assigned by the appointing authority pursuant to Section 152 of these rules. (8-24-08)T

10. 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)

11. Transfer. A change of work location of an employee in which the employee changes from one (1) position to another in the same classification or to another classification in the same pay grade. (3-16-04)

12. Underfill. The filling of a classification of position with an employee in a classification of lower pay grade to accommodate a training period as approved by the administrator. (3-16-04)

13. USERRA. Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. Sections 4301 through 4333. Prohibits employment discrimination against persons because of their service in the Armed Forces Reserve, the National Guard, or other uniformed services. (8-24-08)T

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

014. -- 018. (RESERVED).

019. BASIC MERIT REQUIREMENTS OF THE PERSONNEL SYSTEM.
All appointments, promotions and separations in the classified service shall be based on competence, valid job requirements, and individual performance. (3-30-01)

020. VETERANS PREFERENCE.
Except for key employee positions, preference must be given to qualified veterans in initial employment and retention. (8-24-08)T

01. Qualified Veteran. To receive the preference, the person must have: (8-24-08)T

a. Served on active duty in the armed forces during a war, in a campaign, or expedition for which a campaign badge has been authorized, or served on active duty during the period beginning April 28, 1952 and ending July 1, 1955; (8-24-08)T

b. Served on active duty as defined in 38 U.S.C. Section 101(21) at any time in the armed forces for a period of more than one hundred eighty (180) consecutive days, any part of which occurred after January 31, 1955 and before October 15, 1976; (8-24-08)T

c. Served on active duty as defined in 38 U.S.C. Section 101(21) in the armed forces during the period beginning on August 2, 1990 and ending on January 2, 1992; (8-24-08)T

d. Served on active duty as defined in 38 U.S.C. Section 101(21) at any time in the armed forces for a period of more than one hundred eighty (180) consecutive days, any part of which occurred during the period beginning on September 11, 2001 and ending on the date prescribed by Presidential proclamation or by law as the last date of Operation Iraqi Freedom. (Ref. Section 67-502(14), Idaho Code, and 5 U.S.C. Section 2108); or (8-24-08)T

e. Served as may be further defined in 38 U.S.C. Section 101(11). (8-24-08)T

02. Disabled Veteran Defined (for Preference Points on Competitive Exam). Disabled veterans, Purple Heart recipients, and their widows, widowers, or spouses, when qualified under state law will have additional points added to a passing score and placed on the register in accordance with the provisions set forth in Section 102 of these rules. (Ref. Rule Subsection 093.03, and Sections 65-502(2), 503, and 504(3), and 67-5309(f), Idaho Code) (8-24-08)T

03. Retention. Veterans (as defined in Title 65, Chapter 5, Idaho Code) will receive the equivalent of three (3) years of satisfactory service in additional points awarded towards the total calculation of retention points in a reduction of work force determination. (Ref. Rule Section141 and Section 65-501, Idaho Code) (8-24-08)T

021. DISCRIMINATION PROHIBITED.
No person shall be discriminated against in regards to appointments, promotions, demotions, separations, transfers, compensation, or other terms, conditions, or privileges of employment because of race, national origin, color, sex, age, religion, disability, or veteran status (unless under other than honorable conditions). (3-30-01)

022. PROHIBITED QUESTIONS.
All questions on applications and examinations shall be based on valid job requirements. Questions which impermissibly discriminate on the basis of race, national origin, color, sex, age, religion, disability, political affiliation, or veteran status are prohibited. Questions regarding veteran status for compliance with veterans' preference are permitted. (Ref. Rule 020) (3-16-04)

023. BONA FIDE OCCUPATIONAL QUALIFICATION.
Qualification requirements based on age or gender may be established as necessary for specific positions by the Administrator of the Division of Human Resources. (3-30-01)

024. CONFLICT OF INTEREST AND PERSONAL CONDUCT.

The maintenance of a high standard of honesty, ethics, impartiality, and conduct by state employees is essential to ensure 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. All appointing authorities shall establish such policies and standards necessary to prevent conflicts of interest. (11-21-08)T

025. 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)

026. DUAL EMPLOYMENT.
There will be no conflicting hours of work when a classified employee is employed by more than one (1) state agency. The employee must obtain approval from all appointing authorities concerned prior to beginning dual employment. (8-24-08)T

027. -- 039. (RESERVED).

040. NONCLASSIFIED EMPLOYEES SUBJECT TO CLASSIFIED SERVICE SUBSEQUENT TO APRIL 5, 1985.
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. (3-30-01)

01. Probationary Period. A nonclassified employee brought under classified service under Rule 040 must serve a probationary period appropriate for the classification 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. (3-16-04)

02. 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. (3-30-01)

03. Examination. An employee who has not completed a probationary period as required above shall be required to pass an examination for the classification assigned to the employee's position. Prior to passing such examination, the employee's status shall be provisional. (3-16-04)

04. 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. (3-30-01)

05. 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 classification to which assigned, the employee's salary shall be protected; to the maximum of their new paygrade. (3-16-04)

041. -- 049. (RESERVED).

050. CONSULTANTS AND PERSONS EMPLOYED UNDER INDEPENDENT CONTRACT.
Nothing in these rules prohibits the use of independent contractors or consultants for legal, medical, technical, or other professional services, provided that they are not engaged in the performance of administrative duties for any state agency. No position in the state classified service will be filled by a consultant or independent contractor. (8-24-08)T

01. Limited Use Only. Individuals employed through contracts with temporary services or professional staffing agencies will be utilized only for short-term situations. (3-30-01)

02. Conflict of Interest/Nepotism. Agency policies regarding conflict of interest/nepotism should address the award of work to consultants and contractors. (See Sections 024 and 025 of these rules. Also Ref. Section

18-1359, Idaho Code.) (3-16-04)

03. Not to Be Treated as Employees. Independent contractors, their staff or consultants must not be treated as employees. Appointing authorities must comply with current Internal Revenue Service guidance on independent contractor and employee definitions. (3-16-04)

051. -- 059. (RESERVED).

060. ADOPTION OF CLASSIFICATION SCHEDULE.
The Division of Human Resources, after consulting with each appointing authority, shall develop, adopt, and make effective a classification schedule consisting of classification 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. (3-16-04)

061. ANALYSIS OF CLASSIFICATIONS.
The Division of Human Resources will assist appointing authorities in the analysis of positions in determining proper classification and, at the determination of the administrator, will conduct independent classification reviews of the various agencies. (8-24-08)T

062. AUTHORITY.
The administrator shall have the responsibility and authority to classify positions in the classification schedule. (3-30-01)

063. REVIEW OF CLASSIFICATION SCHEDULE.
The administrator, in cooperation with the various appointing authorities, shall ensure the appropriateness and accuracy of classification specifications. (3-16-04)

064. AMENDMENT OF CLASSIFICATION SCHEDULE.

01. Changes To Classifications. Whenever it is necessary to establish or delete a classified position or to revise a position's responsibilities, the appointing authority will submit proposed changes to the administrator. (3-30-01)

02. Approval. Each appointing authority, prior to establishing any new position within the agency, will obtain the approval of the administrator for the classification of such positions and their assignment to a pay grade in the compensation schedule. Approval by the administrator of the Division of Financial Management for sufficiency of funds is also required. (8-24-08)T

03. Assignment to Pay Grade Required. No person will be appointed to, employed in, or paid for services in any classified position until the position has been established, classified, and assigned to a pay grade in accordance with these rules. (3-30-01)

065. APPROVAL OF NEW, REVISED AND DELETED CLASSIFICATIONS.

01. New and Refactored Classifications. New classifications of work and revised classifications require approval by both the administrator and the Division of Financial Management administrator when there is a fiscal impact. (3-16-04)

02. Revised and Deleted Classifications. Revised classifications with no fiscal impact and classifications deleted from the classification schedule require approval only of the administrator. (3-16-04)

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 Division of Human Resources' 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 administrator 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 administrator, but may be retroactive to the beginning of the pay period during which approval is granted. Reclassification of an employee shall not precede the effective date of the reclassification of the position. (3-30-01)

068. VIOLATIONS.
Accurate position classification is the foundation for providing equal pay for equal work, identification of actual work performed, fair employment and equal opportunity for promotions, and equitable compensation. Upon the administrator's determination that classification rules have been violated, the appointing authority will be informed and provided thirty (30) days to take actions necessary to correct the situation or submit a corrective action plan to the administrator. If these actions do not occur, the administrator will inform the employee, the appointing authority, and the state controller that the employee is being compensated in violation of these rules. (Ref. Sections 67-5308 and 67-5312, Idaho Code) (3-16-04)

069. (RESERVED).

070. COMPENSATION OF EMPLOYEES.

01. Assignment to Pay Grade. As a basis for pay equity, the Division of Human Resources will use a combination of point factoring and market data to determine the relative value of each classification. (Ref. Rule Subsection 074.01 and Section 67-5309B, Idaho Code) (8-24-08)T

02. Factoring. The Division of Human Resources will use the Hay method to determine the relative value of each classification, and as a basis for internal pay equity. (Ref. Section 67-5309B, Idaho Code) (8-24-08)T

03. Salary Surveys. The Division of Human Resources will conduct or approve salary surveys, to determine salary ranges that represent labor market average rates for Hay point factored positions in classified service. (3-16-04)

04. Relevant Labor Markets. Labor markets used for wage comparison will be based on recruiting markets for specific job classifications. Consultation with various appointing authorities will also contribute to labor market determination. (8-24-08)T

a. When the competition for employees is the local area market, the comparison will be made from a survey representing public and private employers in the state of Idaho. (3-16-04)

b. For classifications with a regional recruiting area, the comparator market will be from public and private employers from the neighboring states and Idaho. For those with no private counterparts, the comparator market will be state governments, including, but not limited to, Arizona, Colorado, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. (8-24-08)T

c. Recruitment and retention issues will be used to determine the need for additional special market surveys. (3-16-04)

05. Compensation Schedule. Significant changes to components of the compensation plan will be presented in a public meeting after notice. (8-24-08)T

071. MERIT INCREASE MATRIX.
Salary increases must be based on a merit increase matrix approved by the Division of Human Resources. Shift and geographic premium pay, bonuses, reinstatements, transfers, promotions, and recruitment and retention awards are not subject to a matrix. (8-24-08)T

072. OPERATION OF COMPENSATION PLAN.

01. Authorized Pay Rate. No employee in the state classified service will be paid at a rate less than the minimum nor greater than the maximum rate of the pay grade assigned to the classification. (8-24-08)T

02. Starting Salary. The starting salary for a new appointee may be anywhere within the pay grade assigned to the employee's classification and is at the appointing authority's discretion considering available budget, market, and relation to existing staff salaries. (8-24-08)T

03. Payline Exceptions. Temporary assignments to a new pay grade may be made by the administrator. Such assignments apply to an entire classification for the purpose of recruitment or retention and will be reviewed annually to determine the need for continuance. (8-24-08)T

04. Salary After Reappointment from Layoff. Employees appointed by the agency that laid them off (Ref. Rule Subsection 101.01 and Section 146) will be paid in the current pay grade for the classification to which reappointed or at the same payrate the employee received immediately preceding layoff, whichever is greater, but not to exceed the maximum of the current pay grade. (8-24-08)T

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

a. A transfer between agencies (Ref. Rule Section 125) in the same classification or one of equal pay grade does not require a change in the employee's salary, but a lower or higher rate may be negotiated between the employee and the appointing authority. (8-24-08)T

b. If the transfer is to a classification of lower pay grade (demotion), the employee's salary is negotiable between the employee and appointing authority within the lower pay grade. (3-16-04)

06. Salary Upon Reinstatement. Unless related to reemployment after a lay off, the salary of a reinstated employee (Ref. Rule Section 124) is negotiable between the employee and appointing authority in the current pay grade for the classification in which the employee has reinstatement privileges. (8-24-08)T

07. Salary Upon Downward Reassignment. When a classification is reassigned downward the employee's salary will be protected to the maximum within the new pay grade. (3-16-04)

08. Salary Upon Return from Military Duty. An employee who returns to state service from active military duty in accordance with the provisions of Section 65-508, Idaho Code, and USERRA will be paid at the comparable rate in the current pay grade for the classification to which he was assigned prior to leaving for military service. (8-24-08)T

073. CALCULATION OF PAY.

01. Standard Calculation of Pay. For other than police, correctional officers, or fire employees, pay is calculated in the following order: (8-24-08)T

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. (8-24-08)T

02. Shift Differential. Additional compensation paid to employees (including temporary or part-time employees) who work specific, designated hours. Shift differential is paid in addition to any other compensation.

(Ref. Sections 67-5302(20), 67-5328, Idaho Code; Rule Subsection 073.02) Shift differential may be awarded in amounts up to and including twenty-five percent (25%) of hourly rates, based on local market practice for similar jobs. (Ref. Section 67-5309(u), Idaho Code. (8-24-08)T

03. Calculation of Pay for Police, Correctional Officers, and Fire Employees. Police, correctional officers, and fire employees on a twenty-eight (28) day work schedule will be compensated as described in Subsections 073.01 and 073.02 of these rules, except that overtime will be calculated based on one hundred sixty (160) hours in a twenty eight (28) day period instead of forty (40) hours in a workweek. (8-24-08)T

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

a. Paid time off for holidays is a benefit and must be allocated in a substantially similar manner to all employees in the same classification. (11-21-08)T

b. A full-time employee will receive holiday pay in accordance with the number of hours the employee works on a regular workday. If the employee's schedule is so irregular that a regular workday cannot be determined, the employee will receive eight (8) hours of holiday pay. An employee must receive some paid leave, wages or salary for the pay period in which the holiday occurs to receive the holiday benefit. (3-16-04)

c. A part-time employee who has a regular work schedule shall be paid for a holiday in the same ratio as eight (8) hours is to a forty (40) hour work week, which for calculation purposes converts to two tenths (.20) x hours normally worked. (3-16-04)

d. To avoid inequities with regard to the Family Medical Leave Act (FMLA) during holiday weeks, if an employee is recording all hours for the week as Family Medical "Leave Without Pay," no hours will be coded on the holiday. Therefore, in both Paragraphs 073.03.b. and 073.03.d. of these rules, the holiday will not be counted toward the twelve (12) weeks of family medical leave. (8-24-08)T

e. If a part-time employee's hourly schedule is so irregular that a normal workweek cannot be determined, the holiday benefit is in the same proportion that the hours the employee works during a week in which a holiday occurs relate to forty (40). (3-16-04)

f. Schedules resulting in holiday time off in excess of eight (8) hours may be approved by the appointing authority if included in the agency compensation plan. Appointing authorities may also suspend flex schedules during holiday weeks or otherwise adjust work schedules to ensure internal consistency. (8-24-08)T

05. Reduction of Salary. The salary of an employee receiving more than the lowest rate of the pay grade for his classification may be reduced to a lower rate within the pay grade by the appointing authority for disciplinary reasons enumerated in Section 190 of these rules. (8-24-08)T

06. Salary Administration. Each agency must develop a compensation plan. Each agency compensation plan must be designed to consider recruitment and retention and ensure pay equity within the organization. (Ref. Section 67-5309B, Idaho Code) (8-24-08)T

07. Salaries for Temporary Appointments. Except as provided for in these rules, salaries for employees hired under temporary and project-exempt appointments will be governed by Section 59-1603, Idaho Code. (8-24-08)T

074. ASSIGNMENT OF HAY EVALUATION POINTS.

01. Assignment to Pay Grade. Pursuant to Sections 67-5309B and C, Idaho Code, the pay grade to which a classification is assigned shall be determined by the number of Hay evaluation points assigned to each classification. (3-16-04)

02. Guide Charts. The Hay evaluation points assigned to a classification shall be the composite numerical value of points factored from the Hay guide charts. (3-16-04)

03. Factoring Benchmarks. The factoring benchmarks correlated by Hay Management Consultants shall be used in conjunction with the Hay Guide Charts to determine the number of points assigned to a classification. (3-16-04)

04. Factoring Process. Hay evaluation points shall be assigned to a classification through the following methods, which may be used separately or in combination with the others: (3-16-04)

a. Informal Agreement. The appointing authority presents the new or revised classification and factoring recommendation informally to the administrator of the Division of Human Resources or designee and there is agreement on the points assigned. (3-16-04)

b. Factoring Session. The administrator shall determine the membership of a factoring committee and schedule a factoring session in which the appointing authority or designee may present both oral and written information concerning the classification to be factored. The factoring committee shall assign Hay evaluation points in accordance with Rule 074 and the administrator shall notify the appointing authority in writing of the decision of the factoring committee. The appointing authority may request an issue conference with the factoring committee and present their perspective on the assigned points. The factoring committee may affirm or modify the assigned points. The administrator will provide a letter to the appointing authority stating the outcome of the issue conference. (3-16-04)

c. Hay Management Consultants. After consultation with the appointing authority, the administrator may refer the classification to Hay Management Consultants for a factoring analysis. (3-16-04)

05. Approval. After consultation with the administrator of the Division of Financial Management for approval regarding potential fiscal impacts, the administrator of the Division of Human Resources shall have final approval of the Hay evaluation points assigned to each classification. These points are final unless appealed in accordance with Section 67-5316, Idaho Code. (3-16-04)

075. BONUSES.

01. Performance Bonuses. Up to a total of two thousand dollars ($2,000) may be awarded each fiscal year, in recognition of exemplary performance. In extraordinary circumstances exceptions to the two thousand dollar ($2,000) limit may be granted if approved in advance by the State Board of Examiners. Documentation of the exemplary performance and related bonus award must be provided to the employee and placed in the employee's agency personnel file. (Ref. Sections 59-1603(7) and 67-5309D(1), Idaho Code) (8-24-08)T

02. Employee Suggestion Award. Appointing authorities may award up to a total of twenty-five percent (25%) of the savings realized from an employee's idea to save taxpayer dollars, not to exceed two thousand dollars ($2,000). (Ref. Section 67-5309D, Idaho Code) (8-24-08)T

a. Suggestions must be intended to increase productivity, conserve state resources, reduce state costs, or improve the morale of state employees. (8-24-08)T

b. Suggestions that may deserve an award larger than two thousand dollars ($2,000) and suggestions aimed at saving money outside the employee's state agency should be submitted through the employee's agency first for screening and support, and then routed to the Division of Human Resources for centralized coordination and tracking. Awards greater than two thousand dollars ($2,000) must be approved in advance by the State Board of Examiners. (8-24-08)T

c. Employee suggestion awards may be funded from the expense category (personnel, operating, or capital) from which the savings were realized. (Ref. Section 67-5311(1), Idaho Code) (8-24-08)T

076. -- 079. (RESERVED).

080. RECRUITMENT.
The administrator will cooperate with the appointing authority of each agency and with the director of the Department of Labor in the operation of a coordinated recruiting program. (8-24-08)T

081. PURPOSE OF EXAMINATIONS.
The administrator shall conduct examinations for the purpose of maintaining eligibility registers. (8-1-81)

082. METHODS OF RECRUITMENT.
For the purpose of establishing eligibility registers, there are three (3) methods of recruitment: open competitive, agency promotional, or statewide promotional. The scope of advertising and outreach for each approach will vary with agency preference, needs, and labor market strategies. (8-24-08)T

083. MOVING EXPENSE REIMBURSEMENT.

01. Reimbursement Limitations. The appointing authority may reimburse moving expenses for current or newly hired state employees in an amount less than or equal to ten percent (10%) of the employee's base salary or fifteen thousand dollars ($15,000), whichever is less. Moving expense reimbursements must comply with the State Board of Examiners' State Moving Policy and Procedures that are in effect at the time the move takes place. (8-24-08)T

02. Exceptions to Reimbursement Limitations. Exceptions to the expense reimbursement limits set forth in Subsection 083.01 of these rules may be granted if approved in advance by the appointing authority. (8-24-08)T

084. ANNOUNCEMENT OF RECRUITMENT.

01. Distribution of Announcements. The announcement of each open-competitive recruitment will be supplied to the appropriate local offices of the Idaho Department of Labor and to other locations determined necessary by the administrator to develop a register of eligibles. If the open competitive recruitment has been requested by the appointing authority in lieu of a promotional recruitment, it will be his responsibility to post or otherwise distribute the announcement so it can be seen by all employees of that agency prior to its expiration date. (Ref. Rule Section 169) (8-24-08)T

02. Posting of Promotional Announcements. The announcement for each promotional recruitment will be supplied to the appointing authority of each affected agency. It will be his responsibility to post, electronically communicate, or otherwise distribute such announcement so it can be seen by all employees in the agency prior to the expiration date. (8-24-08)T

085. CONTENT OF ANNOUNCEMENTS.
Each announcement shall contain the title of the classification, characteristic duties and responsibilities, salary, minimum qualifications, nature of examination, qualifying score, closing date, equal opportunity and veterans preference notice, and other pertinent information. (3-16-04)

086. APPLICATIONS.

01. Form. All applications must be filed in the form approved by the administrator. (8-24-08)T

02. Filing of Applications. Applications are currently accepted by internet application system, mail, personal delivery, electronic mail and FAX to the Division of Human Resources. An application will also be considered timely if any Job Service or agency human resources office receives and date stamps it by the closing date, notifies the Division of Human Resources, and ensures that it is delivered to the Division of Human Resources by close of the next business day. (3-16-04)

03. Application by Military Personnel. An application will be accepted after the closing date of the announcement from a person who was serving in the armed forces, or undergoing service-connected hospitalization of no more than one (1) year following discharge, during any period in which the 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 an examination. (Ref. Sections 65-503 and 67-5309(f), Idaho Code) (8-24-08)T

04. Application by Disabled Veterans. A disabled veteran may file an application at any time up until a selection for any classification for which the Division of Human Resources maintains a register as a source for future job openings or for which a register is about to be established, provided the veteran has not already been examined twice for the same classification, does not have current eligibility on that register, or is not serving in a competitive position in the same pay grade as the classification for which application is made. (Ref. Sections 65-503 and 67-5309(f), Idaho Code) (8-24-08)T

05. Promotion of Entrance Probationary Employee. Any classified employee on entrance probation may file an application for a promotional opportunity and be placed on a register but may not be appointed until permanent status has been attained. (Ref. Rule Subsections 159.01. and 169.03.) (3-16-04)

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 9-340C, Idaho Code). (12-10-90)

087. DENIAL OF APPLICATIONS.

01. Basis. The administrator may choose not to process an application if: (3-16-04)

a. The applicant will not meet the minimum qualifications specified in the announcement at the time set for appointment. (3-30-01)

b. The application was not received on or before the closing date for acceptance of applications. (3-30-01)

c. 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. (3-30-01)

02. Further Actions. When any such finding under Rule 087.01 is made, the administrator may deny 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 administrator may take appropriate action to have the employee removed from the position. (3-30-01)

088. (RESERVED).

089. LOCATION OF EXAMINATIONS.
To enhance recruiting efforts, agencies may request examinations be held in specific areas of the state, by approved proctors outside the state of Idaho, or via electronic communications. (3-16-04)

090. EXAMINATIONS.
Examinations shall be designed to evaluate 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 ability. (3-30-01)

091. PROHIBITED FACTORS.
No part of any examination shall include any question designed to reveal prohibited information including the political or religious affiliation or belief, national origin or race of any candidate. (3-30-01)

092. PREPARATION OF EXAMINATIONS.

01. Content of Examinations. Examinations may include any questions, tests or criteria designed to evaluate the suitability of applicants for job openings within a classification. So far as is practical, promotional examinations will be similar to corresponding open-competitive examinations and the same standards will be applied in determining scores. (3-30-01)

02. Job Analysis and Confidentiality. Contents of each examination will be determined by the Division of Human Resources on the basis of appropriate professional techniques and procedures of job analysis and

test development. No information concerning the specific content of the examination will be divulged to unauthorized personnel by Division of Human Resources or other personnel who have access to the examinations. (8-24-08)T

03. Subject-Matter Experts. The Division of Human Resources may, at its discretion, collaborate with appointing authorities, incumbents, subject-matter experts, or other qualified persons in the preparation of examinations. (8-24-08)T

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

01. Designation of Examiners. The examinations will be conducted and rated by persons designated by the administrator. (8-1-81)

02. Scoring of Examinations. Each examination will be rated for final scores on the basis of one hundred (100) point maximum. The Division of Human Resources will use appropriate statistical and professional techniques and procedures in determining passing points and final scores. (8-24-08)T

03. Veterans Preference. (3-16-04)

a. Veterans and disabled veterans points, when applicable under state law, will be added to the final score achieved in the examinations, notwithstanding the fact that the augmented final score may exceed one hundred (100) points. Five (5) percentage points will be added to the earned rating of any veteran, as defined in Section 65-502, Idaho Code, and the widow or widower of any veteran, as defined in Section 65-502, Idaho Code, as long as the widow or widower remains unmarried. Pursuant to Section 65-504, Idaho Code, ten (10) percentage points will be added to the earned rating of any disabled veteran, as defined in Section 65-502, Idaho Code, or to the unmarried widow or widower of the same, or the spouse of any eligible disabled veteran who cannot qualify for any public employment because of a service-connected disability. Employment registers will be established in order of final score except that the names of all five (5) and ten (10) percentage point preference eligibles resulting from the merit system will be placed on the register in accordance with their augmented rating. (Ref. Sections 65-506 and 67-5309(f), Idaho Code) (8-24-08)T

b. Veterans and disabled veterans preference points must not be used to achieve a passing score. (8-24-08)T

04. Failing Score. Failure in any part of the examination may disqualify the applicant in the entire examination and from having his name placed on the register. Final scores will be computed in accordance with weights assigned the individual factors in the total examination. (8-24-08)T

05. Use of Alternate Announcement. An examination may be rated for another classification under current announcement at the discretion of the administrator. (3-16-04)

06. Waiver of Examination. Notwithstanding other provisions in these rules, when ten (10) or fewer applications are received from applicants meeting minimum qualifications for a position announcement and there is no existing register, the announced examination may be waived by the administrator. These applicants will be eligible for appointment and their placement on the register will take into account veterans' preference. When using registers developed in this manner, appointing authorities will provide the opportunity for placement interviews for each applicant on the register. (3-16-04)

07. Examination Upon Reclassification. An employee occupying a position which is reclassified (Ref. Rule Subsection 067.01) may be required at the discretion of the administrator to pass an examination for the classification to which reclassified. (8-24-08)T

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 of their final scores electronically or by mail. The records of scores shall be held as official records for the life of the resulting eligibility registers. (3-16-04)

096. REVIEW AND APPEAL.

01. Review of Examination Content and Scoring Material. Any competitor, or his/her representative authorized in writing, shall be permitted to inspect his/her own papers and records, except examination content and scoring material, upon application in person at the office of the Division of Human Resources in Boise during business hours. Alternative arrangements are available for competitors located outside of Boise. Review shall be limited to the time allowed for appeal of examination scores. (3-16-04)

02. Appeal of Examination Score. Any competitor, by written request to the administrator, may appeal his or her examination score within thirty-five (35) calendar days after the notice was sent to such competitor. The administrator 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 administrator shall provide a written explanation to competitors whose scores are affected by the action taken. (3-16-04)

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 classification if the Division of Vocational Rehabilitation, the Idaho Commission for the Blind, or the Industrial Commission certifies the following: (3-16-04)

a. That the individual has a physical or mental impairment that substantially limits one (1) or more major life activities, as further defined under state or federal law; (3-30-01)

b. That the individual meets the minimum qualifications of the classification and is qualified to perform the essential functions of a particular classified position with or without reasonable accommodation; and (3-16-04)

c. That the individual lacks competitiveness in the examination process due to the disability. (Ref. Section 67-5309(e), Idaho Code.) (3-16-04)

02. Concurrence Required. The certification shall be made with the concurrence of Division of Human Resources. (3-30-01)

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 are established by the Division of Human Resources to provide for fair and impartial selection for entrance into the state classified service and for promotion on the basis of competitive merit examinations. (8-24-08)T

101. TYPES OF ELIGIBILITY REGISTERS.
There are four (4) kinds of eligibility registers: (4-5-85)

01. Reemployment Preference Registers. Registers with reemployment preference for a given classification will contain the names of classified employees of permanent status who have been laid off or notified of a pending layoff except limited service appointments. (See Sections 140 and 146 of these rules). (8-24-08)T

02. **Agency Promotional Registers**. Agency promotional registers for a given classification will contain the names of classified employees in a given agency who successfully passed an agency promotional examination for the class. (Ref. Rule Subsection 086.05) (8-24-08)T

03. **Statewide Promotional Registers**. Statewide promotional registers for a given classification will contain the names of all classified employees in all state agencies who successfully passed a statewide promotional examination for the class. (Ref. Rule Subsection 086.05) (8-24-08)T

04. **Open Competitive Registers**. Open competitive registers for a given classification will contain the names of applicants who successfully passed an open competitive examination for the classification. (8-24-08)T

102. PLACEMENT ON REGISTER.

01. **Score Order**. Eligible candidates will be placed on the register for a given classification ranked in descending numerical order based on their final score on the examination for such classification. (8-24-08)T

02. **Veterans' Preference**. Eligible veterans or surviving spouses entitled to five (5) point preference will be placed on the open competitive register in accordance with their final score on the examination augmented by preference points. (Ref. Rule Subsection 093.03, and Section 65-504, Idaho Code) (8-24-08)T

03. **Disabled Veterans' Preference**. Eligible ten percent (10%) or more disabled veterans, Purple Heart recipients, or surviving spouses entitled to ten (10) point preference will be placed on the open-competitive register in order of their final score on the examination augmented by preference points. Veterans who have a current service-connected disability of thirty percent (30%) or more will be offered an interview when their final score on the hiring list places them within the top ten (10) qualified candidates. If more than ten (10) thirty percent (30%) or greater disabled veterans place in the top ten (10) qualified scores of a hiring list, at least ten (10) will be offered an interview. (Ref. Rule Subsection 093.03 and Section 65-506, Idaho Code) (8-24-08)T

04. **Veterans' Preference Points for Initial Appointment Only**. The additional points added by reason of veterans' preference will be used the first time a qualified veteran is hired by a state agency and not for the purpose of promotions. (Ref. Section 65-504, Idaho Code) Initial appointments do not include: (8-24-08)T

a. Jobs held by patients, inmates, or students employed at a state institution; (8-24-08)T

b. Temporary or casual employment; or (8-24-08)T

c. An office filled by election. (8-24-08)T

103. DURATION OF ELIGIBILITY REGISTERS.

01. **Reemployment Preference Registers**. Eligible candidates will remain thereon for twelve (12) months from effective date of layoff. (Ref. Rules 101.01 and 144) (3-16-04)

02. **Other Registers**. The duration of all other registers will be determined by the administrator based on the frequency of job openings and agency need. (3-16-04)

104. REMOVAL OF NAMES.

01. **Reasons Specified**. Names may be removed from any eligibility register by the administrator because of: (8-24-08)T

a. Appointment of the eligible candidate from the register to the classification or appointment to a classification in a higher pay grade. (3-16-04)

b. A statement by the eligible candidate that he is not willing to accept appointment under conditions previously specified. (8-24-08)T

c. Physical, mental or other disability where it has been demonstrated that the disability will prevent the eligible candidate from satisfactorily performing the essential functions of the position with reasonable accommodation for the disability. (3-16-04)

d. Failure of an eligible candidate to respond within seven (7) calendar days to documented good faith inquiry concerning availability for employment. (3-16-04)

e. The eligible candidate's conduct renders him unsuitable for the position or classification for which he applied. (8-24-08)T

f. Written rejection of the eligible candidate for good cause by an appointing authority as approved by the administrator. (3-30-01)

g. Conviction of an eligible candidate of any felony. (3-30-01)

h. False statements of material facts given in the eligible candidate's application for employment or any subsequent examinations or interviews. (3-30-01)

i. Dismissal of an eligible candidate from state service. (3-30-01)

j. Paying, promising to pay, or giving any money, thing, service or consideration to any person, directly or indirectly, for any service or influence given, used, or promised towards securing appointment. (3-16-04)

k. Directly or indirectly obtaining information regarding examinations to which, as an applicant, he is not entitled. (8-24-08)T

l. Refusing an interview or refusing to accept a position under the conditions set forth in the recruitment announcement. (3-16-04)

m. Having been certified for a probationary appointment for three (3) separate positions in the same classification in the same agency and not been accepted for employment for good cause. (8-24-08)T

n. Declining three (3) separate offers of employment or reemployment without good cause. (3-16-04)

02. Limitations and Duration of Removal. The administrator will determine if the candidate will be removed from all registers, registers for a particular classification, or registers for specified agencies. All removals will be for one (1) year unless otherwise authorized by the administrator. (3-16-04)

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. (3-30-01)

106. RESTORATION OF NAMES TO ELIGIBILITY REGISTERS.
Upon receiving appropriate evidence, the administrator shall restore the name of an eligible candidate to any eligibility register from which it has been removed for causes enumerated in Rule 104. (3-30-01)

107. REVISION OF CLASSIFICATION SPECIFICATIONS.
Whenever a classification specification is revised, the names of persons on the existing eligibility register who meet the minimum qualifications for the revised classification shall be placed in score order on the eligibility register for the revised classification. (3-16-04)

108. (RESERVED).

109. CERTIFICATION AND SELECTION.
Whenever a vacancy in a classified position is to be filled by a competitive recruitment process, the appointing

authority shall make selection from a hiring list created from eligibility registers certified by the Division of Human Resources' staff. Non-promotional internal or external transfers or reinstatements do not require registers certified by the Division of Human Resources. (3-16-04)

110. NUMBER OF NAMES ON REGISTER.
The Division of Human Resources' staff shall certify a hiring list 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) eligible candidates successively for each position to be filled. If an appointment is to be made to one (1) position only, the top ten (10) available eligible candidates 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 eligible candidates with scores identical to the tenth ranking eligible candidate on the register shall be provided to appointing authorities for selection purposes. (3-16-04)

111. ADEQUATE REGISTERS.
A register with at least five (5) eligible candidates is adequate. If no register exists or if there are less than five (5) eligible candidates, appointing authorities may: (8-24-08)T

01. Selection from Inadequate Register. Hire an eligible candidate listed on an inadequate register. (3-30-01)

02. Provisional Appointment. Make a provisional appointment pursuant to Subsection 119.04 of these rules. (8-24-08)T

03. Request Certification. Request the administrator authorize certification from an eligibility register for a comparable classification. (3-16-04)

04. Special Request. Request specialized recruitment. (3-30-01)

112. SELECTIVE CERTIFICATION.
The administrator 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 classification. (3-16-04)

113. -- 118. (RESERVED).

119. APPOINTMENTS, REINSTATEMENTS, TRANSFERS, AND RESIGNATIONS.

01. Reemployment Preference Register. New appointments to a classification within an agency are not permissible if there is an agency reemployment preference register (Ref. Rule Subsection 101.01) for that classification with names of eligibles who are willing to accept employment. (8-24-08)T

02. Credited State Service. Except as provided by Section 040 and Subsection 250.02 of these rules, no classified credited state service accrues to employees for any service under temporary, project exempt, or nonclassified appointments. (8-24-08)T

03. Probationary Period Required. All appointments to positions in the state classified service whenever adequate eligibility registers exist for the classification are probationary appointments except as otherwise provided in Sections 040 and 150 of these rules. (8-24-08)T

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

a. A provisional appointment may be authorized in the absence of an adequate register. (Ref. Section 67-5309(k), Idaho Code) (8-24-08)T

b. In nominating a person for provisional appointment, the appointing authority will transmit to the administrator an application for employment of the nominee. If the applicant meets the minimum qualifications established for the classification, 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 will not be permitted unless specifically authorized by the administrator. (3-16-04)

c. Provisional incumbents will be given opportunity to take the examination for the classification 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 done so will be separated no later than thirty (30) calendar days after the establishment of an adequate register of eligibles. (3-16-04)

120. LIMITED SERVICE APPOINTMENTS.

01. Designation. Classified positions expected to be of limited duration due to funding or nature of the position or project must be identified and designated in advance of announcement. (3-16-04)

02. Permanent Status and Expedited Layoff. Employees appointed under limited-service appointments have permanent classified status after successful completion of probation. These employees have the same rights and responsibilities as other permanent employees but may be subject to expedited layoff pursuant to Paragraph 140.01.c. of these rules. (8-24-08)T

03. Limited Service Agreement. Appointing authorities making limited-service appointments must prepare, no later than the date of appointment, a written agreement for signature of both the employee and appointing authority describing the non-career nature of the appointment, potential for layoff, and the duration the employee may expect to work. Renewals and updated agreements are required every two (2) years. A copy of the agreement must be submitted to the administrator. (8-24-08)T

121. 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(31), Idaho Code). (3-16-04)

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 through 147, relating to reduction in force. (3-16-04)

03. Separation. Employees appointed under a seasonal appointment may be separated from the seasonal appointment and returned as frequently as intermittent workload dictates. (3-16-04)

04. Duration of Appointment. If an employee has not been called to work for six thousand two hundred forty (6,240) hours (three (3) years), the seasonal appointment expires; rehire of the employee must be from a register. (12-10-90)

122. TEMPORARY APPOINTMENTS (NON-CLASSIFIED).
Temporary appointments are limited to one thousand three hundred eighty-five (1,385) hours of work in any twelve (12) month period for any one (1) agency. Both calculations begin on the date of the original temporary appointment. An applicant who is hired as a temporary employee from a hiring list created from a certified register, and serves at least one thousand forty (1,040) hours of continuous service, may be hired by the employing agency into that position in classified service as an entrance probationary employee without further examination. The announcement for the temporary position from which the certified register was created must indicate that the temporary position has the potential of becoming a permanent classified position. The classified position must be in the same classification and at the same location as announced. (Ref. Section 67-5302(33, Idaho Code) (8-24-08)T

123. PROJECT-EXEMPT APPOINTMENTS (NON-CLASSIFIED).
Project-exempt appointments are non-classified positions and 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) (3-16-04)

124. REINSTATEMENTS.

01. Eligibility. As determined by the administrator, a current or former employee will be eligible for reinstatement to a classification in which he held permanent status, or if deleted its successor, or to another classification of equal or lower pay grade under the following conditions (salary treatment is covered by Subsection 072.05 of these rules). (8-24-08)T

a. Reinstatement is limited to a period equal to the length of the employee's probationary and permanent employment combined. (3-30-01)

b. The current or former employee must have separated from the classification for which reinstatement is desired without prejudice. A former employee must also have separated from state classified service without prejudice. (3-16-04)

c. The current or former employee must meet the current minimum qualifications of the classification to which reinstatement is desired. (3-16-04)

02. Reinstatement Prohibited. Reinstatement of a current or former employee is not permissible as long as there is an agency register (Ref. Rule Subsection 101.01) for that classification with names of eligibles who have reemployment preference status. (8-24-08)T

03. Examination. The administrator may require a current or former employee to pass an examination for the classification to which reinstatement is desired. (3-16-04)

04. Probationary Period. An appointing authority may negotiate for a probationary period as a condition of reinstatement except where prohibited. (Ref. Rule Subsections 124.05 and 145.01). (3-16-04)

05. Return from Military Duty. An employee returning from military leave without pay (Ref. Rule Subsection 250.05) who is relieved or discharged from military duty under conditions other than dishonorable will be, upon application, reinstated in his former position, or one of comparable classification, without loss of credited state service, status, or pay as prescribed by Sections 46-216, 65-508, and 65-511, Idaho Code, USERRA, or the Military Selective Service Act, Title 38, Chapter 43, U.S. Code. Application for reemployment must be made in accordance with the provisions of USERRA. Salary treatment is covered by Subsection 072.08 of these rules. (8-24-08)T

125. TRANSFERS.

01. Authority to Transfer. An appointing authority may transfer an employee at any time from one position to another in the same classification. (3-16-04)

02. Transfer Within Pay Grade. An appointing authority may transfer an employee from a classification in which he holds permanent status to another classification allocated to the same pay grade for which the employee meets the minimum qualifications. (8-24-08)T

03. Probationary Period. An appointing authority may negotiate with an employee for a probationary period as a condition for a voluntary transfer. Voluntary probation is not allowed for intra-agency transfers. (Ref. Rule Section 150) (8-24-08)T

04. Limitation. Transfers will not be used to abridge an employee's rights in reduction in force prescribed by Sections 140 through 147 of these rules. (8-24-08)T

05. Transfer Between Agencies. An employee is eligible for transfer between agencies in the same classification in which he holds permanent status or to another classification in the same or lower pay grade for which the employee meets the minimum qualifications. Accrued vacation and sick leave will be transferred in accordance with Subsections 230.04 and 240.02 of these rules. Salary treatment is covered by Subsection 072.04 of these rules. (8-24-08)T

06. Restriction. Transfer of an employee between agencies is not permissible as long as there is a

agency register with reemployment preference status (Ref. Rule Subsection 101.01) for the classification in the agency to which transfer is desired with names of eligibles who are willing to accept reemployment. (8-24-08)T

07. Examination. The administrator may require an employee transferring between classifications to pass an examination for the classification to which transfer is desired. (3-16-04)

08. Involuntary Transfer. Notice and an opportunity to be heard must be given to any employee subject to an involuntary transfer. (8-24-08)T

126. 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 appointing authority. (8-24-08)T

02. Rescission and Reinstatement. Once an employee has submitted a resignation, reinstatement is in the discretion of the appointing authority as provided in Section 124 of these rules. The appointing authority may but is not required to allow an employee to rescind a resignation prior to its effective date. (8-24-08)T

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

127. -- 128. (RESERVED).

129. ACTING APPOINTMENT TO A POSITION.

01. Conditions for Acting Appointment. At the discretion of an appointing authority, a classified employee with permanent status may be appointed to a position in a classification of higher pay grade within his own agency in an acting capacity whenever: (8-24-08)T

a. The incumbent of the position in the higher classification is on authorized leave of absence; or (3-16-04)

b. A vacancy exists and there is no agency register with reemployment preference status (Ref. Rule Subsection 101.01) with names of eligibles who are willing to accept reemployment, nor adequate agency register for the classification. (8-24-08)T

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 must notify the administrator of each acting appointment no later than the effective date of the appointment unless an exception is specifically authorized by the administrator. (8-24-08)T

04. Effective Date. The effective date of each acting appointment may be retroactive to the beginning of the pay period during which approval is granted. (3-16-04)

130. LIMITATION ON LENGTH OF APPOINTMENT.
Acting 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 administrator. (3-16-04)

131. SALARY.
For any credited state service which an employee serves in a classification in an acting capacity, he or she shall receive the salary for the classification as though he or she had actually been promoted. (3-16-04)

132. EXPIRATION OF APPOINTMENT.

01. Return of Incumbent. When the incumbent of the classification 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. (3-16-04)

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 130. (3-16-04)

133. -- 139. (RESERVED).

140. REDUCTION IN FORCE.

01. Conditions for Layoff. An appointing authority may lay off an employee whenever necessary due to: (3-16-04)

a. Shortage of funds or work; (3-16-04)

b. Reorganization; (3-16-04)

c. The end of a limited service appointment; (3-16-04)

d. An employee's failure to complete interagency promotional probation when demotion options are not available; or (3-16-04)

e. The abolishment of one (1) or more positions (ref. Rule Section 066). (3-16-04)

02. Layoff Decisions. Layoff decisions must not be based on race, color, national origin, gender, age, religion, disability, or political affiliation. Layoffs must be accomplished in a systematic manner with equity for the rights of classified employees and must not do away with an employee's right to problem solving, or appeal if the layoff is in fact a dismissal. (8-24-08)T

03. Assessment for Adverse Impact. In planning and conducting a reduction in force, the appointing authority must consider the effect layoff units and positions to be abolished may have on the composition of the agency work force. If layoff units or exclusions are established, adverse impact of protected classes must be assessed. The appointing authority must administer the reduction in force consistent with state and federal laws, and rules and guidelines governing adverse impact. (8-24-08)T

04. Layoff by Position. Reduction in force must be by classification of position. (8-24-08)T

a. Reduction in force may be limited to or specifically exclude employees appointed under selective certification, (Section 112) for bona fide occupational qualifications, or appointed to a classification with minimum qualification specialties. Inclusions or exclusions must include or exclude all incumbents of the classification appointed under similar selective certification, or the same option or minimum qualification specialty and must be approved in advance by the administrator. (3-16-04)

b. An appointing authority may petition the administrator to exclude an individual from a reduction in force whose retention may be required to meet agency mission critical needs. Requests must provide a documented rationale and exclusions must be approved in advance by the administrator. (8-24-08)T

c. Limited-service appointments are defined by the project, program, or function for which the appointments were made. When a limited service project is completed or funding concluded, the limited service appointee is separated from state service as a layoff. However, limited service appointees have no reemployment preference and will not displace other regular permanent or limited services staff via voluntary demotion in lieu of layoff. (3-16-04)

05. Layoff Unit. Reduction in force must be agency-wide or by organizational unit designated for

layoff purposes. Layoff units are geographic, programmatic, or other identified subdivisions of an agency designated for layoff purposes by the appointing authority. They must be approved by the administrator before the effective date of the layoff. Organizational layoff unit designations must be renewed with a change in appointing authority or administrator. (8-24-08)T

06. Reduction of Hours Worked. An involuntary reduction in the number of hours worked for a selected position constitutes a layoff unless there is an equal reduction of hours worked for all positions in the same classification in the agency or approved layoff unit for a limited period of time, such as a furlough. (8-24-08)T

07. Downward Reclass. A material change in duties of one (1) or more positions resulting in an employee's reclassification to a classification allocated to one (1) pay grade lower does not constitute a layoff. (Ref Section 067). More than one (1) pay grade change downward is considered a layoff, unless the change of duties is disciplinary (Ref. Section 190). (8-24-08)T

141. CALCULATION OF RETENTION POINTS.
There will be an evaluation of all employees in the classification in the agency or organizational unit affected by the reduction in force based on a retention point system. Retention points are derived from experience as described in performance evaluations and classified credited state service. Qualified veterans are given preference through additional retention points. (Ref. Subsection 141.03), The appointing authority will determine a process for the impartial assessment of evaluations to assign points as follows:

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

(8-24-08)T

01. No Performance Evaluation on File for a Twelve-Month Period. All credited state service for which there is no performance evaluation will receive seventy-five thousandths (.075) points per hour. A supervisor's failure to document performance in a timely manner cannot be used to disadvantage an employee during retention point calculation. (8-24-08)T

a. Grace period. Supervisors have ninety (90) days after each two thousand eighty (2,080) hours an employee works to complete the performance evaluation documentation. During that ninety (90) day time frame, the evaluation may be written to cover the two thousand eighty (2,080) hours or extended to also cover the time frame up to the date of the evaluation. (3-16-04)

b. Changes in prior periods not allowed. Once an evaluation has been signed by the supervisor, employee, manager, and other applicable reviewers, the document may not be changed, unless the change is a result of a problem solving dispute resolution. (3-16-04)

02. Calculation of Retention Points Since Last Evaluation. The most recent performance evaluation should be used to pro-rate retention points when calculating credited state service since that evaluation, unless that evaluation occurred more than two thousand eighty (2,080) hours from the date of calculation. In such cases, points are calculated in conformance with Subsection 141.01 of these rules. (8-24-08)T

03. Qualified Veterans Preference. Veterans as defined in Title 65, Chapter 5, Idaho Code, will receive preference by the addition of retention points equivalent to three (3) years of service at a level that achieves performance standards. (Ref. Section 65-501, Idaho Code) (8-24-08)T

04. Calculation Date Cutoff. No points will be calculated for the sixty (60) days prior to the effective date of the layoff. (3-16-04)

05. Audit of Retention Points. Each employee is entitled to an audit of retention points by an

independent auditor designated by the administrator in cases of dispute between the appointing authority and the employee. The request for audit must be filed with the appointing authority within five (5) calendar days of the employee's receipt of layoff notification. The decision of the independent auditor is binding on both parties unless an appeal is filed within thirty-five (35) calendar days from the date of the auditor's notification to the affected parties. (8-24-08)T

142. 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, Title 67, Chapter 53, 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)

143. REDUCTION IN FORCE DETERMINATION AND NOTIFICATION.

01. Identification of Classifications. The appointing authority will identify the classification of positions to be reduced or eliminated. (8-24-08)T

02. Calculation of Retention Points. Retention points will be calculated for all employees assigned to the classification of position including those serving in underfill positions. Retention points need not be calculated where layoff involves a single-incumbent class. (11-21-08)T

03. Order of Reduction in Force. The order of reduction in force will be by type of appointment held by the employee in the affected classification as follows: first to be laid off are provisional appointees, next the entrance probationary appointees, and then the permanent appointees including those serving a voluntary probation. Employees will be placed on the layoff list beginning with the employee with the highest number of retention points. Employee layoffs will be made from the layoff list in inverse order. When two (2) or more employees have the same combined total of retention points, retention will be determined in the following sequence: (Ref. Rule Paragraph 150.02.c.) (8-24-08)T

a. The employee with the highest total retention points for the past thirty-six (36) months. (3-16-04)

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

04. Notification to Affected Employees. Each employee affected will be notified in writing of layoff and the rationale for the decision at least fifteen (15) calendar days prior to the effective date. Notification will include a copy of the agency layoff procedure and a copy of the computation of retention points when required (Ref. Rule Subsection 142.02). (8-24-08)T

05. Notification to Administrator. The appointing authority must give written notice of layoff to the administrator at least fifteen (15) calendar days prior to its effective date and must provide a list of persons affected by the layoff with their retention point calculations and must indicate which employees will be laid off. (8-24-08)T

144. PLACEMENT ON REGISTER WITH REEMPLOYMENT PREFERENCE.
A permanent employee laid off from their job or who chooses a voluntary demotion in lieu of a layoff, under these rules shall be placed on their classification's register with reemployment preference in unranked order. Such placement will be for one (1) year from the effective date of demotion or layoff, or until the employee or former employee declines a total of three (3) separate job offers without good cause, whichever comes first. (Rule 104.01.n.) An employee or former employee may request their name be removed at any time. (3-16-04)

145. USE OF REGISTERS WITH REEMPLOYMENT PREFERENCE.

01. Priority for Reemployment by Agency that Conducted the Layoff. (3-16-04)

a. The employee who has been laid off, or given official, written notice of a pending layoff date (Ref. Rule Subsection 143.05) will be offered reemployment to a position in the classification from which laid off or layoff is pending, before any person outside that agency may be promoted to, transferred to, reinstated or appointed to that classification by an appointing authority of that agency. Appointing authorities may reassign or transfer individuals who are in the same classification within their agency but may not demote, promote, reclassify, or make acting appointments to that classification. If that agency determines a need to fill that classification, the employee scheduled for lay off or who was laid off has first priority for that position. (Ref. Rule Subsections 125.04 and 125.08) Extenuating circumstances due to short term budget, workload, location, or other complexities may be used by the appointing authority to request a temporary waiver of this rule by the administrator. (8-24-08)T

b. When attempting to fill vacancies for a classification where a lay off occurred, the agency will provide an opportunity to interview and will make their hiring selection from the individuals their agency laid off from the classification, including those separated from state service under Subsection 150.02 of these rules and those that took a voluntary demotion in lieu of layoff. (8-24-08)T

c. Individuals being returned to the classification from which they were laid off will be reinstated with the same salary, permanent status and their sick leave balance restored. If the pay minimum has increased, see Subsection 072.03 of these rules. (8-24-08)T

02. Consideration for Hire by Other Agencies. For promotional opportunities, internal agency candidates are normally considered before outside recruitment occurs, including other agencies' laid off candidates. However, individuals who have been laid off must be offered the opportunity to interview before other agencies consider candidates from statewide promotional or open-competitive recruitments. (3-16-04)

03. Employment by Other Agency. Individuals may be reappointed or reinstated if eligible. The salary of an employee re-hired after a layoff is negotiable between the employee and new appointing authority in the current pay grade for the classification in which the employee is appointed. (3-16-04)

04. Return to Register. If an individual finds another agency's position unsatisfactory or does not satisfactorily complete a voluntary probation period, he may be placed back on a register for the remainder of their twelve (12) month time frame. Individuals appointed to a position, other than the classification from which laid off, will remain on preference register status for the remainder of the twelve (12) month period if otherwise eligible. (8-24-08)T

146. INTERVIEWS FOR PROSPECTIVE LAYOFFS.
Any employee who has been notified or identified as likely to be affected by a layoff may request to be placed on a register for the classification from which the layoff will occur. (Ref. Rule 145.01.a.) All agencies shall offer an interview to these individuals when attempting to fill such vacancies through statewide promotion or open competitive recruitments. (Ref. Rule 145.02) (3-16-04)

147. VOLUNTARY DEMOTION IN LIEU OF LAYOFF.
Within their layoff unit, an employee with permanent status may choose to accept a voluntary demotion rather than be laid off. Demotion options are limited to a classification, or if deleted, its successor, in which the employee held permanent status in the agency. Such demotion will not be permitted if it causes the layoff of an employee with greater retention points. (8-24-08)T

01. Eligibility. (3-16-04)

a. Qualified. Employee must meet the classification's current minimum qualifications and any minimum qualification specialties. (3-16-04)

b. Exclusion. Limited service appointees are not eligible to take any voluntary demotion that would result in the displacement of other employees. However, voluntary demotions to a vacant position are allowed with the approval of the appointing authority. (3-16-04)

02. Acceptance. To accept a voluntary demotion rather than a layoff, the employee must notify the appointing authority in writing of their decision no later than three (3) working days after written notification of the layoff and opportunity to demote to a specific position. (3-16-04)

148. -- 149. (RESERVED).

150. PROBATIONARY PERIODS.

01. Probationary Period Required. Except as provided in Section 040 of these rules, every appointment and promotion to a classified position is probationary, or in the absence of adequate registers, provisional. (8-24-08)T

02. Types of Probationary Periods. The probationary period serves as a working test period to provide the agency an opportunity to evaluate a probationary employee's work performance and suitability for the position. There are three (3) types of probationary periods: (8-24-08)T

a. Entrance probation is the probationary service required of an employee at the time of his original appointment or any subsequent appointment to state classified service excluding reinstatement and transfer, the duration of which is one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who must serve two thousand eighty (2,080) hours. (8-24-08)T

b. Promotional probation is the probationary service required when an employee is promoted, the duration of which is one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who must serve two thousand eighty (2,080) hours. (8-24-08)T

c. Voluntary probation is an agreement between employees and the appointing authority for interagency employment actions such as reinstatement, transfer, or voluntary demotion. A voluntary probation is not to be used for employment actions within the agency. The probationary period is negotiable but may not exceed one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who may serve up to two thousand eighty (2,080) hours. (8-24-08)T

03. Extension of Probationary Period. Upon written request demonstrating good cause, the administrator may extend the probationary period of an employee for an additional specified period not to exceed one thousand forty (1,040) hours of credited state service. Extension must occur before an employee has worked one thousand forty (1,040) hours or two thousand eighty (2,080) hours for peace officers. (Ref. Section 67-5309(j), Idaho Code) (8-24-08)T

04. Interruption of Probationary Period. The probationary period in any classification must be completed within a single agency uninterrupted by termination (Ref. Rule Subsection 152.02) or dismissal (Ref. Rule Section 190). An employee who separated during the probationary period must begin a new probationary period upon reappointment or promotion. (8-24-08)T

05. Acting and Temporary Service Credit. At the request of the hiring agency, the administrator will allow temporary and acting appointment service time in a given classification to be used toward fulfilling the entrance probationary requirement in that classification as established in Section 67-5309(j), Idaho Code. The temporary or acting appointment duties must be substantially the same as the regular permanent appointment. (Ref. Section 67-5309(x), Idaho Code, and Rule Sections 122 and 129 and Subsection 150.01) (8-24-08)T

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 Division of Human Resources 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 unless either period has been extended pursuant to Rule 150.03. (Ref. Section 67-5309(j), Idaho Code, and Rule 210.04) (3-30-01)

152. SEPARATION DURING PROBATION.

01. Notification. If a probationary employee does not serve satisfactorily, the appointing authority, must, no later than thirty (30) calendar days after the expiration of the probationary period, provide the employee and the Division of Human Resources a performance evaluation indicating unsatisfactory performance. (Ref. Section 67-5309(j), Idaho Code and Rule Subsection 210.04) (8-24-08)T

02. During Entrance and Voluntary Probation. (3-30-01)

a. An employee who does not serve satisfactorily during the entrance or voluntary probation must first be given the opportunity in writing to resign without prejudice; an employee who fails to resign may be terminated without cause assigned and without the right to file for problem-solving or an appeal. (Ref. Section 67-5309(j), Idaho Code, and Subsection 210.04) (8-24-08)T

b. Notice to the employee of termination for unsatisfactory service must be made not later than fifteen (15) calendar days prior to the effective date of termination, unless there are extenuating circumstances. (8-24-08)T

153. UNSATISFACTORY PERFORMANCE DURING A PROMOTION PROBATION PERIOD.

01. Disciplinary Action. Regardless of the probation status, when a Rule 190 violation supports demotion, suspension, or dismissal, such action may occur. (3-16-04)

02. Intra-Agency. If an employee, on promotional probation, does not meet performance expectations, he or she shall be returned to a position in the classification which he or she holds permanent status or to another classification in the same pay grade for which the employee meets minimum qualifications. If the employee refuses to accept the position, it shall be considered a voluntary resignation. (3-16-04)

03. Inter-Agency. (3-16-04)

a. The employee may voluntarily demote to a vacant position in any classification he or she has held permanent status in state career service. However, the employee must meet the current minimum requirements for that classification. If more than one (1) option exists for demotion, the employee should be placed in the higher paid position, but the specific assignment is up to the appointing authority. (3-16-04)

b. If no position is available for the voluntary demotion option, the employee may be laid off and may: (3-16-04)

i. Request their name be placed on a register with reemployment preference rights for the next available vacancy in the classification they would have demoted to in his/her new agency; and/or (3-16-04)

ii. Request their name be placed on a register for the classification in the agency where they last held permanent status. (3-16-04)

c. When reinstatement occurs in the classification they promoted from, in the new agency or the prior agency, the employee's name is removed from reemployment required preference status. (3-16-04)

154. FAILURE TO PROVIDE PERFORMANCE EVALUATION.
If the appointing authority fails to provide a performance evaluation as required in Rule 151, 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 administrator. (Ref. Rule 150.03) (3-16-04)

155. -- 158. (RESERVED).

159. STATUS AND TENURE.

01. Probationary Promotions. Employees serving a promotional probationary period have continued permanent status in the classification from which promoted until they are certified as having satisfactorily completed the promotional probationary period in the classification to which promoted. (Ref. Rule Sections 151, 152, and 153) (8-24-08)T

02. Tenure of Employment. All employment in the state classified service is without definite term except where the term may be specified by law, or under conditions of a limited-service appointment. (Ref. Rule Section 120) (8-24-08)T

160. -- 168. (RESERVED).

169. PROMOTIONS.

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

a. Preference for Promotion. Whenever practical, a vacancy in a classified position must be filled by the promotion of an employee in the agency in which the vacancy occurs. (Ref. Section 67-5309(g), Idaho Code) (8-24-08)T

b. Exception. An appointing authority may request that a position be filled from a statewide promotional register (Ref. Rule Subsection 101.03) or an open competitive register (Ref. Rule Subsection 101.04) whenever he determines that such an appointment will best serve the interests of the agency. (8-24-08)T

c. Agency Registers with Reemployment Preference Status. Promotions to a classification are not permissible as long as there is an agency register with reemployment preference status (Ref. Rule Subsection 101.01) for the classification with names of eligible candidates who are willing to accept reemployment. (8-24-08)T

02. Interagency Promotions. All interagency promotions must be made using statewide promotional registers (Ref. Rule Subsection 101.03) (8-24-08)T

03. Eligibility for Promotion. Promotional appointees must have permanent status (Ref. Rule Section 159) and must meet the minimum qualifications of the promotional classification. (8-24-08)T

04. Promotion, In-Grade. To reflect unique agency organization design, an agency may choose to request an internal competitive process to recognize the advancement of an employee with permanent status from a position occupied in one classification to a position in another classification having greater points, more responsibility, or a unique specialty area, but within the same pay grade. With the approval of the administrator, an in-grade promotion will be treated in all regards as a promotion. (8-24-08)T

170. -- 178. (RESERVED).

179. DEMOTIONS.
Demotions are reductions of an employee from a position which the employee occupies in one classification to a position in another classification in a lower pay grade. Demotions authorized under these rules apply to both probationary and permanent status employees who meet the minimum qualifications of the classification to which demoted. (8-24-08)T

180. NONDISCIPLINARY DEMOTION REQUIRED.
An appointing authority shall make a nondisciplinary demotion when the position occupied by an employee is reclassified to a classification allocated to a lower pay grade in accordance with assigned responsibilities pursuant to Rule 067. (3-16-04)

181. NONDISCIPLINARY DEMOTION OPTIONAL.
An appointing authority may allow a voluntary demotion when requested or accepted by an employee and approved by the appointing authority. (3-16-04)

182. 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)

183. -- 189. (RESERVED).

190. DISCIPLINARY ACTIONS.

01. Cause for Disciplinary Actions or Separation From State Service. Dismissal, suspension, demotion, or the reduction in pay, of a classified employee, may occur for any of the following causes during the employee's employment: (8-24-08)T

a. Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes, or rules of the agency or the Division of Human Resources and Idaho Personnel Commission. (8-24-08)T

b. Inefficiency, incompetency, or negligence in performing duties, or job performance that fails to meet established performance standards. (8-24-08)T

c. Physical or mental incapability for performing assigned duties, if a reasonable accommodation cannot be made for the disabling condition. (8-24-08)T

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 agency. (8-24-08)T

f. Intoxication or being under the influence of alcohol, or the misuse of medications or controlled substances, while on duty. (8-24-08)T

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 the employee's official capacity. (8-24-08)T

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 in Subsection 190.01 of these rules. Each suspension for

investigation will 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 administrator. Further extensions may be granted with the approval of the Administrator. (8-24-08)T

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 is subject to appeal by the employee to the Commission. (8-24-08)T

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 must 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. (8-24-08)T

05. Notice To Administrator. Whenever an appointing authority considers it necessary to take disciplinary action against an employee, he must notify the employee and the administrator concurrently in writing; and must set forth the specific rules violated and the reasons for the action. Suspensions with pay for investigation (Ref. Rule Subsection 190.02) may be made without prior notice to the employee; in this case, the appointing authority must notify the administrator as soon as practical. (8-24-08)T

191. -- 199. (RESERVED).

200. PROBLEM-SOLVING AND DUE PROCESS PROCEDURES.

01. Overview of Procedures. (3-30-01)

a. The due process procedure deals with the disciplinary matters set forth in Section 67-5315(2), Idaho Code, dismissals, suspensions without pay, and demotions, and with all involuntary transfers. The due process procedure generally requires the employee receive notice and an opportunity to respond before a disciplinary decision or involuntary transfer is made by the agency Decisions regarding disciplinary dismissals, suspensions without pay, and demotions are appealable in accordance with Section 201 of these rules. (8-24-08)T

b. The problem-solving procedure deals with all matters not specifically reserved for the due process procedure. Problem solving decisions may not be appealed to the Commission except as authorized by Section 67-5316, Idaho Code. (8-24-08)T

02. Establishment of Agency Problem-Solving and Due Process Procedures. Each participating agency must maintain written employee problem-solving and due process procedures, which have been approved by the administrator for conformity to law and Section 200 of these rules. (8-24-08)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 must file under the problem-solving procedure in writing not later than ten (10) working days after being notified or becoming aware of a nondisciplinary matter which may be handled through the problem-solving procedure; however, if the filing alleges an ongoing pattern of harassment or illegal discrimination, the agency is strongly encouraged to waive any time limits. (Ref. Rule Subsection 200.03). The time limit for filing will be extended due to the employee's illness or other approved leave, up to ten (10) days after return to the job. The agency may accept a filing that is or appears to be filed late. Agency policies may provide for waiver of time elements or any intermediate step of the problem-solving procedure upon mutual agreement of the employee and appointing authority. (8-24-08)T

04. Elements of the Problem-Solving Procedure. The procedure must contain a statement from the agency head encouraging employees to use the procedure for any nondisciplinary, job-related matters, and encouraging the employee, supervisors, and upper-level managers and administrators to resolve the matter at the lowest management level possible within the organization. The statement must also provide a means whereby agency representatives can obtain timely authority, if needed, to resolve the matter. The procedure must require the employee

to make a reasonable attempt to discuss the issue with the immediate supervisor before filing. After a written filing is received, the procedure must provide for such additional levels of management as are appropriate in the agency. The procedure must also provide for the use of an impartial mediator upon agreement by the employee and agency. Timelines must not exceed five (5) working days between each step. The procedure must also inform the employee that he is entitled to be represented by a person of the employee's own choosing at each step of the procedure, except the initial informal discussion with the immediate supervisor. Two (2) or more employees may join in a single filing under the problem-solving procedure. Retaliation for filing under the problem-solving procedure, for participating as a witness, or representative is expressly prohibited. This procedure does not apply to unsatisfactory performance during entrance probation (Ref. Sections 67-5309(j), 67-5315(1), Idaho Code; Rule Sections 152 and 153). (8-24-08)T

05. Filings Alleging Sexual Harassment or Other Illegal Discrimination. Each agencies's problem-solving procedure must provide an optional alternative procedure for an employee to file allegations of sexual harassment or discrimination based on race, color, sex, national origin, religion, age, or disability. The procedure must expressly prohibit sexual harassment and discrimination. Employees must be informed of their right to file complaints with the Idaho Human Rights Commission. The alternative procedure must designate a specific person or persons to receive and investigate such filings, and must require that the investigation and resolution of them be conducted with maximum regard for confidentiality. (8-24-08)T

06. Elements of Due Process Procedure. An agency must provide notice and an opportunity to respond before making a decision to impose any disciplinary sanction or involuntary transfer, as set forth in Section 67-5315(2), Idaho Code. With respect to notice, an agency must provide notice of the contemplated action, the basis or reason for the contemplated action, and an explanation of the evidence supporting the contemplated action. The notice must be provided to the employee and administrator concurrently. With respect to the opportunity to respond, the employee must be given the opportunity to respond to the notice and present reasons why the contemplated action should not be taken. The opportunity to respond must not occur later than ten (10) working days after the employee has received notice, unless both the employee and agency 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, must make and implement the agencies's decision not later than ten (10) working days thereafter, excluding days the appointing authority, or designee, is out of the office, unless both the employee and agency agree otherwise in writing. The procedure must inform the employee of his right to be represented by a person of the employee's own choosing during the opportunity to respond. The procedure must also provide for the use of an impartial mediator upon agreement by the employee and agency. The procedure does not apply to unsatisfactory performance during entrance and promotional probation (Ref. Sections 67-5309(j), 67-5315(2), Idaho Code; Rule Sections 150 through 153). The due process procedure is complete when the appointing authority, or designee, mails or delivers a decision to the affected employee. The decision must also be sent to the administrator concurrently. (8-24-08)T

07. Notification. A copy of the approved problem-solving and due process procedures must be furnished and explained to each employee with permanent, provisional or entrance probationary status in the agency concerned. (8-24-08)T

08. Assistance to Agencies. The administrator will assist agencies whenever requested in the development or revision of their agency problem-solving and due process procedures. (8-24-08)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, 202, 240, 250, 270.01, 280, 300, 302, 651, 720, 730, 740, 790, 791, 821.02, and 860. Petitions for rulemaking and declaratory rulings are addressed in Sections 270 and 271 of these rules. (3-16-04)

02. Filing of Appeal and Appearances. Every appeal filed with the Commission must be written. The appeal must be filed at the Division of Human Resources which serves as the office of the Commission, and must state the decision that is being appealed and the action requested of the Commission. The Commission must serve a

copy of the appeal on the respondent and upon the legal counsel 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. (8-24-08)T

03. Time for Appeal. An appeal from a decision of an appointing authority is deemed to be timely filed if received at the office of the Commission within thirty-five (35) calendar days after completion of the agency due process 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 constitutes completion of the agency due process procedure. An appeal of a decision or action of the administrator or staff must be filed at the office of the Commission 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. (8-24-08)T

04. Non-Jurisdictional Appeals. Appeals which are non-jurisdictional may be dismissed without motion by the hearing officer, the chair of the Commission, or his designee. If a hearing officer orders such a dismissal, the dismissal may be appealed to the Commission as a petition for review pursuant to Subsection 202.01 of these rules. If the chair of the Commission orders such a dismissal, it constitutes the final order of the Commission and may be appealed pursuant to Sections 67-5317(3) and 67-5318, Idaho Code. (8-24-08)T

05. Setting of Hearing. Within fifteen (15) days after receiving the appeal from the Commission, the hearing officer must 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. (8-24-08)T

06. Filing of Documents. Once an appeal is referred to the hearing officer, all documents relating thereto must be filed directly with the hearing officer during the pendency of the appeal. Copies of all documents submitted must be provided simultaneously to opposing counsel and unrepresented parties. (8-24-08)T

07. 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)

08. Open Hearing. Every hearing is public, unless the hearing officer closes the hearing for good cause. Individual parties may represent themselves (pro se) or be represented by an attorney. (8-24-08)T

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

10. Decision of Hearing Officer. The hearing officer must issue a decision in the form of a preliminary order. The preliminary order must explain the right to file a petition for review under Section 67-5317, Idaho Code. The preliminary order, consisting of such findings of fact, conclusions of law and orders as are necessary, together with the record of the proceedings must be filed at the office of the Commission. A copy of the hearing officer's decision must be promptly sent or delivered to the parties. A motion for reconsideration under Section 67-5243, Idaho Code, is not permitted. (8-24-08)T

11. Procedure for Award of Attorney Fees and Costs. As part of his preliminary order, the hearing officer must make findings as to the entitlement to attorney fees and costs, if any, pursuant to Section 12-117, Idaho Code. If the hearing officer finds a prevailing party is entitled to statutory attorney fees and costs, the prevailing party must file a memorandum of costs, including a supporting affidavit stating the basis and method of computation of the amount claimed. The memorandum must be filed with the hearing officer not later than ten (10) working days after receipt of the hearing officer's decision or no attorney fees and costs must be awarded. Objections to the award of attorney fees and costs must be filed not later than ten (10) working days after receipt of the memorandum of costs and supporting affidavit. The hearing officer must conduct a hearing on the award of attorney fees and costs within ten (10) days of receiving any objections to the award. If no objections are timely filed with the hearing officer, or if the parties stipulate to have the matter decided on the briefs, no hearing is required. The hearing officer determines the amount of the award and must make written findings as to the basis and reasons for the award within ten (10) days after the hearing on the award of attorney fees and costs. If no hearing is required, the hearing officer must issue his decision on the award of attorney fees and costs no later than thirty (30) days after receipt of the prevailing party's memorandum of costs and supporting affidavit. (8-24-08)T

12. Factors Considered in Award of Attorney Fees and Costs. The following factors are considered in the determination of an award of attorney fees and costs: (8-24-08)T

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 filed at the office of the Commission within thirty-five (35) days of the hearing officer's decision issued pursuant to Rule 201.10. The petition shall be in writing and shall specifically cite the alleged errors of fact or law made by the hearing officer. (3-16-04)

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 201.10 and 201.11 shall be automatically stayed. (3-16-04)

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 Chair of the Commission, or his or her designee, may determine whether good cause is shown for the postponement and grant or deny the request on behalf of the Commission. (3-16-04)

b. Motions to dismiss for lack of jurisdiction shall be decided by the Commission. All other motions shall be considered by the Chair of the Commission or at the Chair's discretion may be referred to one (1) Commissioner, whose decision on the motion may be communicated to the parties by letter or other informal means, by the Chair or by counsel to the Commission. (3-16-04)

06. Decision on Petition for Review. The decision of the Commission shall include a statement of appeal rights under Section 67-5318, Idaho Code. Motion for reconsideration of Commission decisions pursuant to Section 67-5246, Idaho Code are not permitted. The Commission shall file the original copy of its decision with the record of the proceedings and mail copies to the parties promptly. (3-16-04)

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. In its decision on petition for review, the Commission shall make findings as to the entitlement to attorney fees and costs, if any, pursuant to Section 12-117, Idaho Code. If the Commission finds the prevailing party, if any, is entitled to attorney fees and costs, the prevailing party shall file a request for attorney fees and costs, with accompanying memorandum and affidavit in support of the request described in Rule 201.11, with the Commission not later than ten (10) working days after receipt of the Commission's decision. Objections to the award of attorney fees and costs shall be filed not later than ten (10) working days after receipt of the request for attorney fees and costs. The Commission shall determine the amount of the award, if any, taking into account the factors defined in Rule 201.12. (3-16-04)

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.
When the Division of Human Resources receives a complaint from a federal agency alleging violation of employment laws, the administrator must take prompt action to investigate. If the complaint is agency specific, the appointing authority will take necessary actions to ensure the investigation is thorough, staff are fully cooperative, and submit findings and any corrective action plan to the administrator and other proper authorities. (8-24-08)T

204. -- 209. (RESERVED).

210. PERFORMANCE EVALUATIONS.

01. Performance Evaluations. Each agency must adopt and maintain a system of employee performance evaluations provided it meets the basic objectives of the state's performance evaluation system as approved by the administrator. (8-24-08)T

02. Approval of Form. The Division of Human Resources' staff will make available a standard format for this purpose. An appointing authority may utilize another form provided it meets the basic performance criteria and ratings and is approved by the administrator. (8-24-08)T

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 expectations for the position; and to identify an employee's strengths and weaknesses and where improvement is necessary. All performance evaluations must be discussed with affected employee who will be allowed opportunity to submit written comments regarding the evaluation contents. (8-24-08)T)

04. Use of Evaluations. Performance evaluations should be used in connection with promotions, transfers, demotions, retentions, separations, and reassignments (Ref. Section 67-5309(h), Idaho Code); and used as the affirmative certification for merit increases and bonuses (Ref. Section 67-5309B(d), Idaho Code); and for certifying a probationary employee to permanent status (Ref. Rule Section 151). Other uses of performance evaluations are optional with the appointing authority. (8-24-08)T

05. Evaluation Schedule. All classified employees must 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(h) and (j), Idaho Code.) Part-time employees must be evaluated on an annual basis. (8-24-08)T

06. Retention of Evaluation. A copy of the performance evaluation must be retained in agency records, and a copy must be furnished to the employee. The performance rating must be transmitted to the administrator. Agency records and supporting documentation are subject to review by the Division of Human Resources. All performance evaluation documents must be copied and forwarded with the employee when an interagency promotion, demotion or transfer occurs. (8-24-08)T

07. Supervisors' Requirements. Supervisors are required to manage performance on a consistent basis including completion of performance evaluations on all employees under their direct supervision. (3-16-04)

211. -- 219. (RESERVED).

220. RECORDS.

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

a. For each employee in classified service, the Division of Human Resources maintains a service record which must include all personnel transactions pertinent to the employee's employment history. (Ref. Section 67-5309(n), Idaho Code) (8-24-08)T

b. Service records or a facsimile thereof for classified employees must be maintained permanently by the administrator. (8-24-08)T

c. Any employee may at all reasonable times during business hours review his service record maintained in the Division of Human Resources or maintained in any agency. Except for material used to screen and test for employment, all information maintained in an employee's service record must 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. (8-24-08)T

02. Administrative Records. The administrator must permanently maintain a record of the proceedings of the Commission and a record of all hearings of appeals. (8-24-08)T

03. Employee Personnel Action Documents. The appointing authority must furnish each employee with notice of every personnel action affecting the employee's status, pay, tenure, or other terms and conditions of employment, including a copy of their performance evaluations. (8-24-08)T

04. Transfers, Reemployment and Promotions Between Agencies. When an employee seeks a transfer, reemployment, or promotion between agencies, the appointing authority of the hiring agency, or designee, is entitled to examine the employee's service record and current agencies performance information before the hiring decision is made. (Ref. Section 67-5309(o), Idaho Code) (8-24-08)T

221. -- 229. (RESERVED).

230. VACATION LEAVE.

01. Eligibility. All classified employees, regardless of status or whether full-time or part-time, earn vacation leave and are eligible to take and be paid for unused vacation leave in accordance with Sections 67-5334, Idaho Code. (8-24-08)T

02. Rate of Accrual. All credited state service (ref. Sections 67-5332 and 59-1604, Idaho Code, for definitions) are counted in determining leave accrual rate. (8-24-08)T

03. Mutual Agreement. Vacation leave requested by the employee may be used only when approved by the agency. The employee and the agency must mutually agree upon such time or times when vacation leave least interferes with the efficient operation of the agency taking into consideration the vacation preference of the employee. (8-24-08)T

04. Interagency Transfer. An employee who is transferred from one state agency to another agency will be credited with accrued vacation leave by the receiving agency at the time of transfer. (8-24-08)T

231. -- 239. (RESERVED).

240. SICK LEAVE.

01. Eligibility. Sick leave is earned in accordance with Section 67-5333, Idaho Code. Sick leave must only be taken in pay periods subsequent to being earned. (8-24-08)T

02. Interagency Transfer. An employee who is transferred from one state agency to another will be credited by the receiving agency with the amount of sick leave accrued at the time of transfer. (8-24-08)T

03. Reasons for Use. Sick leave must 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, foster child, parent, brother, sister, grandparent, grandchild, or the same relation by marriage, or legal guardian. (8-24-08)T

04. Serious Medical Conditions. Sick leave may be used in conjunction with Family and Medical Leave. (Ref. Rule Section 242) (8-24-08)T

05. Notification. It is the responsibility of the employee to notify his supervisor as soon as possible in the event of sickness or injury which prevents the employee from reporting for duty. (8-24-08)T

06. Donated Leave. Vacation leave may be transferred to another employee for the purposes of sick leave in accordance with Section 67-5334, Idaho Code. Such transfers are to be made from employee to employee. Vacation leave is retained by the donating party until it is converted to sick leave in the receiving employee's account. (8-24-08)T

07. Sick Leave Abuse. A predictable and reliable level of attendance is an essential function of almost all positions. Consistent with the provisions of the Americans with Disabilities Act and the Family Medical Leave Act, a supervisor may investigate suspected sick leave abuse including a pattern of unscheduled absences which have a negative impact on the requirements of the job and take appropriate action. When an employee is absent due to illness or injury in excess of three (3) days, a doctor's certificate of justifiable cause for the absence may be required of the employee at the discretion of the immediate supervisor. A doctor's certification of illness or injury may be required of an employee for periods of less than three (3) consecutive working days whenever the immediate supervisor or manager believes special investigation of the absence should be made. (Ref. Rule Section 190 and Section 67-5333, Idaho Code) (8-24-08)T

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 will be given the choice of either: (8-24-08)T

a. Leave of absence without pay while receiving workers compensation; or (8-24-08)T

b. Utilizing a portion of accrued sick leave to supplement workers compensation to maintain his regular salary; however, 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 rights to workers compensation and cannot accept earned leave or other benefits in lieu thereof. (8-24-08)T

02. Layoff After Twelve Weeks' Disability. If the employee becomes disabled, whether or not due to a workers compensation injury, and is unable to return to work after twelve (12) weeks' absence or when accrued sick leave has been exhausted, whichever is longer, the employee's position may be declared vacant unless otherwise prohibited by state or federal law. The employee's name is certified to a reemployment preference register when the administrator has been notified by the physician that the employee is able to return to work. (Ref. Rule Subsection 101.01) (11-21-08)T

a. If an employee is not eligible for the protections of the Family and Medical Leave Act (FMLA), the employee may only take a maximum of twelve (12) weeks absence due to their disability every twelve (12)-month period. The period of absence for such an employee is not interrupted by the employee's full return to work for less than two (2) consecutive work weeks and return to work as part of a rehabilitation program does not interrupt the calculation of the period of absence. (8-24-08)T

b. Conditional releases will be considered in accordance with the Americans with Disabilities Act. (3-16-04)

242. FAMILY AND MEDICAL LEAVE.

01. Applicability. The provisions of the federal Family and Medical Leave Act (FMLA) 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.). The State is one (1) employer for the purposes of FMLA. For consistency, the administrator shall publish statewide guidance on FMLA policies. (3-16-04)

02. Return to Work Release. An appointing authority may request a return to work release if, due to the nature of the health condition and the job: (3-30-01)

a. Light or limited duty work or other accommodation is requested; or (3-16-04)

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)

243. MATERNITY AND PATERNITY LEAVE.

01. Use Of Sick Leave. Pregnancy, child birth or related medical conditions generally are considered temporary disabilities and are treated as such for sick leave purposes. Maternity and paternity leave are granted under the same conditions and requirements as other compensable and non-compensable leave under these rules, including the Family and Medical Leave Act. (8-24-08)T

02. Determination of Disability Period. The employee's physician is considered the primary authority in determining the disability period insofar as compensable sick leave is concerned. (8-24-08)T

03. Additional Time Off. Maternity and paternity leave preceding and following the time that the person is disabled is leave without pay unless the employee elects to use accrued vacation leave or compensatory time off for overtime. (8-24-08)T

04. Discrimination Prohibited. Pregnancy discrimination is prohibited. The employee may continue to work as long as she is physically capable of performing the duties of her position and may return to work as soon as she is physically able as determined by her physician. (3-30-01)

05. Adoption and Foster Care. Leave will be granted for adoption and foster care as set forth in the Family and Medical Leave Act. (Ref. Rule Section 242) (3-30-01)

244. SEPARATION UPON FAILURE TO RETURN TO WORK.
Except for those employees on authorized leave or placed on a register with reemployment preference prescribed by Rule 241.02.a., an employee who has not returned to work within five (5) working days after approved paid or unpaid leave or release by his or her physician shall be considered as having voluntarily separated. Such separation shall be treated as a voluntary resignation, and the employee shall remain eligible for reinstatement as provided under Rule 124. Written notification of his or her separation/resignation shall be mailed to the last known home address. Any objections by the employee to the notice, must be received within five (5) working days of receipt of the notice, or acceptance of the separation/resignation will be presumed. If objections are received within the timeline, a disciplinary separation (dismissal) or other formal disciplinary action may be pursued as provided in Rule 190. (3-16-04)

245. -- 249. (RESERVED).

250. SPECIAL LEAVES.

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

a. Approval. In addition to workers' compensation, family medical leave, disability, or other statewide leave policies, the appointing authority may grant an employee leave without pay for a specified length of time when such leave would not have an adverse effect upon the agency. The request for leave must be in writing and must establish reasonable justification for approval. (8-24-08)T

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. Unless prohibited by workers compensation, family medical leave, disability, or other statewide leave policies, the appointing authority has discretion on whether the employee is required to exhaust accrued vacation leave, earned administrative leave or compensatory time off for overtime before commencing leave without pay. (Ref. Section 240) (8-24-08)T

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 will be paid for such accruals in accordance with Sections 67-5334 and 67-5328, Idaho Code. (8-24-08)T

02. **Leave Defaults**. When an employee does not have accrued sick leave to cover an entire absence the following leave types will be used to the extent necessary to avoid leave without pay: accrued compensatory time and vacation. If abuse of sick leave is suspected see Subsection 240.07 of these rules. (8-24-08)T

03. **Military Leave With Pay**. Employees who are members of the National Guard or reservists in the armed forces of the United States engaged in military duty ordered or authorized under the provisions of law, are entitled each calendar year to one hundred twenty (120) hours of military leave of absence from their respective duties without loss of pay, credited state service or evaluation of performance. Such leave is separate from vacation, sick leave, holiday, or compensatory time off for overtime. (Ref. Section 46-216, Idaho Code). (11-21-08)T

04. **Military Leave Without Pay**. An employee whose employment is reasonably expected to continue indefinitely, and who leaves his position either voluntarily or involuntarily in order to perform active military duty, has reemployment rights as defined in Subsection 124.05 of these rules. The employee will either be separated from state service or placed in "inactive" status, at the option of the appointing authority. (8-24-08)T

05. **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 is compensated. Leaves of absence with pay have no adverse effect on the status of the employee and include the following leaves: (8-24-08)T

a. Vacation leave; (8-24-08)T

b. Sick leave; (8-24-08)T

c. Special leave situations; and (8-24-08)T

d. Compensatory time off for overtime worked. (8-24-08)T

06. **Court and Jury Services and Problem-Solving and Due Process Leave**. (7-1-98)

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 is not considered absent from duty. The employee is not entitled to receive compensation from the court. Expenses (mileage, lodging, meals, and miscellaneous expenses) incurred by the employee must be reimbursed by his respective agency in accordance with agency travel regulations. (8-24-08)T

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 must be permitted to attend. The employee may use accrued leave or leave without pay. (8-24-08)T

c. Jury Service. When an employee is summoned by proper judicial authority to serve on a jury, he will be granted a leave of absence with pay for the time which otherwise the employee would have worked. The employee is 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. (8-24-08)T

d. Problem-solving and due process procedures. Any employee who has been requested to serve as a mediator as provided by an agency problem-solving or due process procedure or to appear as a witness or representative during such a proceeding will be granted leave with pay, without charge to vacation leave or compensatory time off for overtime, to perform those duties. (8-24-08)T

e. Notification. An employee summoned for court and jury service or requested to serve as a grievance panelist, witness, or representative must notify his supervisor as soon as possible to obtain authorization for leave of absence. (8-24-08)T

07. Religious Leave. Appointing authorities will make reasonable accommodations to an employee's need for leave for religious observances. Such leave is charged to the employee's accrued vacation leave or compensatory time off for overtime. (8-24-08)T

08. 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 are authorized leave of absence with pay to cover their scheduled hours of work during the closure or inaccessibility. (11-21-08)T

b. Early release. When the appointing authority or designated representative authorizes early release of employees, the resulting time off will be charged to leave of absence with pay. (11-21-08)T

09. Red Cross Disaster Services Leave. Employees who have been certified by the American Red Cross as disaster service volunteers will be granted up to one hundred twenty (120) hours of paid leave in any twelve (12) month period to participate in relief services pursuant to Section 67-5338, Idaho Code. (8-24-08)T

10. Employee Assistance Program Leave. Up to two (2) hours per visit will be granted for utilization of the Employee Assistance Program (EAP) during normal working hours. This leave is limited to the number of free program visits provided in the state's Behavioral Health Program. (8-24-08)T

11. Bone Marrow and Organ Donor Leave With Pay. (8-24-08)T

a. Approval. Upon request, a full-time employee will be granted five (5) work days' leave with pay to serve as a bone marrow donor or thirty (30) work days' leave with pay to serve as an organ donor. The employee must provide the appointing authority with written verification that the employee is the person serving as the donor. Paid leave, as provided in these rules, is limited to one-time bone marrow and one-time organ donor leave per employee. (Ref. Section 67-5343, Idaho Code) (8-24-08)T

b. Use. An employee who is granted such leave of absence will receive compensation without interruption during the leave period. For purposes of determining credited state service, pay advancement, performance awards, or any benefit affected by a leave of absence, the service of the employee is considered uninterrupted by the paid leave of absence. (Ref. Section 67-5343, Idaho Code) (8-24-08)T

251. -- 259. (RESERVED).

260. COMPENSABLE HOURS.

01. Biweekly Employees. With the exception of holiday leave, no leave may be used if it results in pay in excess of the employee's regularly scheduled work week. (8-24-08)T

02. Ineligible Employees. Employees who are "executive" as defined by Section 67-5302(12), Idaho Code, are ineligible to earn or receive payment for hours worked or accrued beyond their regularly scheduled work

week. (8-24-08)T

261. HOURS WORKED.

01. Hours in Performance of Job. Those hours actually spent in the performance of the employee's job, excluding holidays, vacation, sick leave other approved leaves of absence, and excluding on-call time. (8-24-08)T

02. Travel Time. Travel time is compensated pursuant to policy set forth by the Board of Examiners. (8-24-08)T

03. Hours Outside of Regular Working Hours. 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. (8-24-08)T

262. 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) agency, the agency employing the employee when the overtime occurs is liable for compensatory time off or cash compensation as provided by law. (8-24-08)T

02. Compensation for Overtime. Overtime accrual and compensation for classified employees is covered by Sections 67-5328 and 59-1607, Idaho Code, for nonclassified employees. Overtime is defined in Section 67-5302(20), Idaho Code. Overtime does not include any time, such as traded time, or occasional or sporadic work, which are excluded from the overtime calculation by federal law. (8-24-08)T

03. Modification of Workweek or Schedule. No agency will alter a previously established work week for the purpose of avoiding overtime compensation. An agency may modify the employee's regular schedule of work to avoid or minimize overtime. (8-24-08)T

263. -- 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. POLICY MAKING AUTHORITY.
To address the need for all classified employees to be treated fairly, and in situations where the State may be considered as one (1) employer, the Division of Human Resources Administrator may issue guidance to provide consistent interpretation of federal law, state law, executive order or rule. (8-24-08)T

273. -- 999. (RESERVED).

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