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**IDAPA 06
TITLE 02
CHAPTER 02**

**06.02.02 - RULES GOVERNING ESTABLISHMENT AND OPERATION OF A LIMITED SUPERVISION
UNIT BY THE DEPARTMENT OF CORRECTION, DIVISION OF PROBATION AND PAROLE**

000. LEGAL AUTHORITY.

01. Section 19-2601(5), Idaho Code. Pursuant to Section 19-2601(5), Idaho Code, if the court places a defendant on probation to the Board of Correction the court shall include in the terms and conditions of probation a requirement that the defendant enter into and comply with an agreement of supervision with the Board. (2-6-15)

02. Section 20-212, Idaho Code. Pursuant to Section 20-212, Idaho Code, the Board shall make all rules necessary to carry out the provisions of Title 20, Chapter 2, Idaho Code, not inconsistent with express statutes or the state constitution. (2-6-15)

03. Section 20-217A, Idaho Code. Pursuant to Section 20-217A, Idaho Code, the director shall assume all the authority, powers, functions and duties as may be delegated to him by the Board. (2-6-15)

04. Section 20-219(3), Idaho Code. Pursuant to Section 20-219(3), Idaho Code, the Board shall have the discretion to determine the level of supervision of all persons under its supervision, except those who are being supervised by problem solving courts. (2-6-15)

05. Section 20-219(5), Idaho Code. Pursuant to Section 20-219(5), Idaho Code, in carrying out its duty to supervise felony probationers and parolees, the Board shall use evidence-based practices, shall target the offender's criminal risk and need factors with appropriate supervision and intervention and shall focus resources on those identified by the board as moderate and high-risk offenders. Supervision shall include the use of validated risk and needs assessments measuring criminal risk factors, specific individual needs and driving variable supervision levels. (2-6-15)

06. Section 20-219(7)(a), Idaho Code. Pursuant to Section 20-219(7)(a), Idaho Code, the Board shall promulgate rules in consultation with the Supreme Court to establish a program of limited supervision for offenders who qualify addressing eligibility, risk and needs assessments, transfers among levels of supervision, and reporting to the court and the prosecuting attorney. (2-6-15)

07. Section 20-221(2), Idaho Code. Pursuant to Section 20-221(2), Idaho Code, any party or the Board may submit a request to the court to modify the terms and conditions of probation for any probationer at any time during the period of probation. (2-6-15)

08. Section 20-221(3), Idaho Code. Pursuant to Section 20-221(3), Idaho Code, any party or the Board may submit a request to the court to terminate the probation for any probationer at any time during the period of probation. (2-6-15)

09. Section 20-228, Idaho Code. Pursuant to Section 20-228, Idaho Code the Commission shall include in the conditions of parole a requirement that the offender enter into and comply with an agreement of supervision with the Board. (2-6-15)

10. Section 20-233(2), Idaho Code. Pursuant to Section 20-233(2), Idaho Code, the Board may submit a request to the Commission for a final order of discharge from the remaining period of parole for any parolee under the Board's supervision at any time during the period of parole. (2-6-15)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 06.02.02, "Rules Governing Establishment and Operation of a Limited Supervision Unit by the Department of Correction, Division of Probation and Parole," IDAPA 06, Title 02, Chapter 02. (2-6-15)

02. Scope. These rules are established to govern the creation and operation of a limited supervision unit within the Division, the offender eligibility qualifications for assignment to the unit, the assessment of the risks and needs of offenders assigned, or to be assigned, to the unit, transfers of offenders among levels of supervision, and reporting offender progress and conduct to the court and the prosecuting attorney. (2-6-15)

002. WRITTEN INTERPRETATIONS.

Pursuant to Section 20-212(1), Idaho Code, the Board is exempt from all provisions of Chapter 52, Title 67, Idaho Code, except as specifically noted therein so there are no written interpretations of these rules. (2-6-15)

003. ADMINISTRATIVE APPEALS.

Pursuant to Section 20-212(1), Idaho Code, the Board is exempt from all provisions of Chapter 52, Title 67, Idaho Code, except as specifically noted therein so there is no provision for administrative appeal. (2-6-15)

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference in this chapter. (2-6-15)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. Street Address. The Board of Correction's administrative office and the Idaho Department of Correction are located at 1299 N. Orchard St., Suite 110, Boise, Idaho 83706-2266. Business hours are typically 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays. (2-6-15)

02. Mailing Address (Board of Correction). Mail regarding the Board of Corrections' rules shall be directed to the Board of Correction, Attention: Management Assistant, Office of the Director, 1299 N. Orchard St., Suite 110, Boise, Idaho 83706-2266. (2-6-15)

03. Mailing Address (Dept. of Correction). Mail regarding the Idaho Department of Correction shall be sent to 1299 N. Orchard St., Suite 110, Boise, Idaho 83706-2266. (2-6-15)

04. Telephone Number. The telephone number of both the Board and Department is (208) 658-2000. (2-6-15)

05. Facsimile Number. Faxes shall be sent directly to the person, division, bureau, or unit as requested. If the fax number is not provided by the person, division, bureau, or unit, contact the Department's main reception at (208) 658-2000 to obtain the fax number. (2-6-15)

06. Internet Website and Electronic Mailing Address. The Department's Internet website can be found at <http://www.idoc.idaho.gov/>. The Department's electronic mail address for general correspondence is inquire@idoc.idaho.gov. (2-6-15)

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules of the Board are subject to, and in compliance with, the Idaho Public Records Act. The rules are maintained by the Department of Correction, and shall be open to the public for inspection and copying at all reasonable times. (2-6-15)

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Board. The State Board of Correction. (2-6-15)

02. Commission. The Commission of Pardons and Parole. The decision-making body that has the authority to grant, revoke, reinstate, or refuse parole. The Commission of Pardons and Parole is commonly referred to as the Parole Commission. (2-6-15)

04. Department. The Idaho Department of Correction. (2-6-15)

- 05. Director.** The director of the Idaho Department of Correction. (2-6-15)
- 06. Division.** The Idaho Department of Correction, Division of Probation and Parole. (2-6-15)
- 07. Division Chief.** The exempt employee in authority over the Department's Division of Probation and Parole. (2-6-15)
- 08. Legal and Financial Obligation.** An obligation owed by an offender, which was incurred or imposed as a result of the commission of a criminal offense. Includes court costs, fines, fees, cost of supervision and restitution. (2-6-15)
- 09. Limited Supervision Unit Agreement of Supervision.** A written agreement prepared by the Department for each offender transferred to the Limited Supervision Unit that sets forth in language that is clear and easy to understand the specific acts that an offender must do, or must not do, while on probation or parole and assigned to the Limited Supervision Unit including compliance with the terms and conditions of probation or parole set by the court or Commission. (2-6-15)
- 10. Offender.** A probationer or parolee under the legal care, custody, supervision, or authority of the Board, including a person within or outside of the state of Idaho pursuant to an agreement with another state or contractor. (2-6-15)
- 11. Parolee.** A person who: (2-6-15)
- a.** Has been released from a facility by the Commission prior to the completion of their sentence; (2-6-15)
 - b.** Agrees to comply with certain conditions established by the Commission; and (2-6-15)
 - c.** Remains under the control of a probation and parole officer (PPO) for the established period of supervision. (2-6-15)
- 12. Probationer.** A person who is permitted by the court to continue to live and work in the community while being supervised by the Board under the terms and conditions ordered by the court and the agreement of supervision for an established period of time rather than being held in prison. (2-6-15)
- 13. Violent Misdemeanor.** Any misdemeanor offense that includes, as an element of the offense or as part of the underlying facts: (2-6-15)
- a.** Physical contact with, or injury to, the person of another; or (2-6-15)
 - b.** The use of a weapon to cause or threaten harm to another. (2-6-15)
- 011. ABBREVIATIONS.**
- 01. COS.** Cost of Supervision. (2-6-15)
 - 02. DUI.** Driving Under the Influence of alcohol or drugs. (2-6-15)
 - 03. LFO.** A Legal and Financial Obligation. (2-6-15)
 - 04. LSU.** Limited Supervision Unit. (2-6-15)
 - 05. PPO.** Probation and Parole Officer. (2-6-15)
- 012. ESTABLISHMENT OF LIMITED SUPERVISION UNIT (LSU).**
- 01. Establishment and Supervision.** The Department shall establish a Limited Supervision Unit

(LSU) consisting of probationers and/or parolees under the supervision of a Probation and Parole Officer (PPO) who will monitor unit success, offender compliance, and oversee caseload and supervision activities. (2-6-15)

- 02. LSU Policy Provisions.** The policy establishing the LSU unit shall include: (2-6-15)
- a.** Provisions for regular caseload reviews by all PPOs for candidates to be considered for transfer to the LSU. (2-6-15)
- b.** Supervisory review of PPO recommendations of candidates to be considered for transfer to the LSU. (2-6-15)
- c.** The terms of a Limited Supervision Unit Agreement of Supervision. (2-6-15)
- d.** Procedures for the transfer of offenders to the LSU and for the execution of the Limited Supervision Unit Agreement of Supervision. (2-6-15)
- e.** Offender monitoring and compliance review standards, activities, and requirements for offenders transferred to the LSU. Including the following requirements: (2-6-15)
- i.** Offenders must report on a regular basis not less often than quarterly using the online reporting portal unless the LSU PPO has granted a written waiver. The LSU PPO or designee must respond as provided in Department policy to any alerts generated by the reporting system or otherwise received by the LSU PPO and document the response in the Department's offender database. (2-6-15)
- ii.** Periodically, but not less often than once every six months, the LSU PPO or designee must search the Idaho Supreme Court Repository for: (2-6-15)
- (1) New criminal case filings; (2-6-15)
- (2) Status of legal and financial obligations; (2-6-15)
- (3) Warrants; or (2-6-15)
- (4) Civil commitments. (2-6-15)
- f.** Procedures and reporting requirements for offender non-compliance. (2-6-15)
- g.** Procedures for the transfer of offenders from the LSU back to general supervision. (2-6-15)
- 03. LSU Unit Oversight.** The Division Chief or his designee shall by Department policy be responsible for ensuring the LSU supervising Probation and Parole Officer follows the guidelines, standards and procedures of the unit. District Managers and Section Supervisors will be responsible for ensuring suitable candidates are screened from current offender caseloads and referred to the unit by Probation and Parole Officers. (2-6-15)
- 04. Transfer to Limited Supervision Unit.** The Department shall establish by policy that: (2-6-15)
- a.** Qualifying Factors. Consideration for transfer to the LSU unit will be based on the following factors: (2-6-15)
- i.** Validated Assessment of Potential to Re-Offend. The LSU candidate shall have their potential for re-offense and needs determined through a validated actuarial assessment. To qualify for assignment to the LSU, candidate scores on the risk and needs assessment must be at or below the "low" potential to re-offend level with no increase in risk level for at least ninety (90) days during active supervision immediately prior to transfer, or at or below the "moderate" potential to re-offend level with no increase in risk level for at least three hundred sixty (360) days during active supervision immediately prior to transfer. (2-6-15)
- ii.** Income and Employment Status. The LSU candidate must have verified full-time employment of at

least thirty-two (32) hours per week, or be a full-time student, or have adequate lawful income from non-employment sources including retirement, spousal or child support, student financial aid, disability income or SSI. (2-6-15)

iii. Drug Screening. If the LSU candidate is being supervised at moderate risk or lower they must establish a documented history of negative results on urine sample analyses for banned substances for a period of ninety (90) days before being a candidate for the LSU. Drug screening may be waived for a LSU candidate with a lack of history of drug or alcohol abuse or due to prior supervision at a low risk level of more than one (1) year. (2-6-15)

iv. Legal and Financial Obligations. The LSU candidate must have paid all LFOs in full as directed or have established a record of actively making payments on all outstanding LFOs. (2-6-15)

v. Court Ordered Jail Time and Community Service. The LSU candidate must have established a record of progress toward successful completion of all court ordered obligations for local incarceration and community service. (2-6-15)

vi. Special Terms and Conditions Imposed by Court or Commission. The LSU candidate must have completed or be in compliance with all of the special terms and conditions of probation or parole ordered by the court or the Commission. (2-6-15)

b. Disqualifying Factors. The following factors disqualify an offender from being considered a candidate for transfer to the limited supervision unit: (2-6-15)

i. Additional Offenses: (2-6-15)

(1) Commission of a felony by a LSU candidate while on probation or parole; (2-6-15)

(2) Commission of a violent misdemeanor in the past twelve (12) months; or (2-6-15)

(3) Commission of a misdemeanor DUI offense in the past twelve (12) months. (2-6-15)

ii. Violation of a Special Term or Condition Imposed by Court or Commission. Violation in the past twelve (12) months of a special term or condition of probation or parole imposed by the court or the Commission. (2-6-15)

iii. Interlock Device. The LSU candidate is the subject of a current order under Section 18-8008(2), Idaho Code, or has a special term or condition of probation to have a state approved ignition interlock system installed on each of the motor vehicles owned or operated by the offender. (2-6-15)

iv. No Contact Orders and Civil Protection Orders. The LSU candidate is the respondent in an active No Contact Order or Civil Protection Order. The disqualifying order must be independent of terms and conditions of probation or parole and violation of the order must subject the offender to arrest and potential punishment under Section 18-920 or 39-6312, Idaho Code. (2-6-15)

c. Consideration of Court or Commission Recommendations for Assignment to LSU. The Department will review all recommendations received at any time from the sentencing court or the Commission for assignment of an offender to the LSU and will advise the court and prosecuting attorney or Commission of its decision on such recommendation. (2-6-15)

d. Parolee Meeting Early Discharge Criteria. Without regard to the qualifying and disqualifying factors set forth in subsections a. and b., a parolee who meets the following criteria for early discharge from parole, but has not been granted early discharge by the Commission will be eligible for referral to the LSU: (2-6-15)

i. Parolee is a property or drug offender who has been in the community not less than one (1) year; (2-6-15)

ii. Parolee is a violent or sex offender who has served not less than one third of their remaining

sentence post release within the community; or (2-6-15)

- iii. Parolee is serving a life sentence and has been in the community not less than five (5) years. (2-6-15)

05. Removal from LSU Unit. The Department shall establish policies providing that when an offender no longer meets the qualifications set forth in Subsections 012.04.a. and 012.04.b. or has failed to comply with the terms and conditions of probation or parole or the LSU agreement of supervision or the Department determines that a higher level of supervision of the offender is required, the Department may in its discretion remove the offender from the LSU unit and assign the offender to a higher level of supervision. (2-6-15)

06. Discharge from Probation. The Department shall establish policies providing that: (2-6-15)

a. Early Discharge Requests for Probationers. When a probationer being supervised in the LSU has complied with all terms and conditions of probation and the LSU agreement of supervision for a period of at least twelve (12) months, the Department will determine whether to submit a Request for Discharge to the court. (2-6-15)

b. Early Discharge Requests for Parolees. If a parolee being supervised in the LSU has complied with all terms and conditions of parole and the LSU agreement of supervision for a period of at least twelve (12) months, and meets all requirements for early discharge from parole the Department will determine whether to submit a Request for Discharge to the Commission. (2-6-15)

07. Report to Court or Commission. The Department will report to the sentencing court or the Commission, on a monthly basis, on all offenders, identified by name and case number, that have been assigned to, or removed from, the LSU during the preceding month. A copy of the report will be sent to the prosecuting attorney. (2-6-15)

013. -- 999. (RESERVED)

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