# Table of Contents

06.02.01 – Rules Governing the Supervision of Offenders on Probation or Parole

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>000.</td>
<td>Legal Authority</td>
<td>2</td>
</tr>
<tr>
<td>001.</td>
<td>Title And Scope</td>
<td>2</td>
</tr>
<tr>
<td>002.</td>
<td>Written Interpretations</td>
<td>2</td>
</tr>
<tr>
<td>003.</td>
<td>Administrative Appeals</td>
<td>3</td>
</tr>
<tr>
<td>004.</td>
<td>Incorporation By Reference</td>
<td>3</td>
</tr>
<tr>
<td>005.</td>
<td>Office – Office Hours – Mailing Address And Street Address</td>
<td>3</td>
</tr>
<tr>
<td>006.</td>
<td>Public Records Act Compliance</td>
<td>3</td>
</tr>
<tr>
<td>007.</td>
<td>-- 009. (Reserved)</td>
<td>3</td>
</tr>
<tr>
<td>010.</td>
<td>Definitions</td>
<td>3</td>
</tr>
<tr>
<td>011.</td>
<td>Abbreviations</td>
<td>4</td>
</tr>
<tr>
<td>012.</td>
<td>General Supervision</td>
<td>5</td>
</tr>
<tr>
<td>013.</td>
<td>Use Of IRM</td>
<td>5</td>
</tr>
<tr>
<td>014.</td>
<td>Establishment Of LSU</td>
<td>6</td>
</tr>
<tr>
<td>015.</td>
<td>-- 999. (Reserved)</td>
<td>7</td>
</tr>
</tbody>
</table>
06.02.01 – RULES GOVERNING THE SUPERVISION OF OFFENDERS ON PROBATION OR 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 includes 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 has authority to 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 has authority to 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, target the offender’s criminal risk and need factors with appropriate supervision and intervention and 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 has authority to 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. (6-19-19)

07. Section 20-219(7)(b), Idaho Code. Pursuant to Section 20-219(7)(b), Idaho Code, the Board has authority to promulgate rules in consultation with the Supreme Court to establish a matrix of swift, certain and graduated sanctions and rewards to be imposed by the Board in response to corresponding violations of or compliance with the terms or conditions imposed. Sanctions for violations include, but are not limited to, community service, increased reporting, curfew, submission to substance use assessment, monitoring or treatment, submission to cognitive behavioral treatment, submission to an educational or vocational skills development program, submission to a period of confinement in a local correctional facility for not more than three (3) consecutive days and house arrest. Rewards for compliance include but are not limited to, decreased reporting and transfer to limited supervision. (2-6-15)

08. 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 are titled IDAPA 06.02.01, “Rules Governing the Supervision of Offenders on Probation or Parole,” IDAPA 06, Title 02, Chapter 01. (6-19-19)

02. Scope. These rules are established to govern the supervision standards and the parameters of a matrix of swift, certain and graduated sanctions and rewards to be implemented and used by the Board and the creation and operation of a limited supervision unit. (6-19-19)

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.

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.

004. INCORPORATION BY REFERENCE.
No documents are incorporated by reference in this chapter.

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

01. Mailing Address. Mail regarding the Board of Correction’s rules may be directed to the Board of Correction, Attn: Management Assistant, Office of the Director, 1299 N. Orchard St., Suite 110, Boise, Idaho 83706-2266. Mail regarding the Idaho Department of Correction may be sent to 1299 N. Orchard St., Suite 110, Boise, Idaho 83706-2266.

02. Street Address. The Board of Correction administrative office and the Idaho Department of Correction are located at 1299 N. Orchard St., Suite 110, Boise, Idaho 83706-2266.

03. Telephone Number. (208) 658-2000.

04. Facsimile Number. Faxes may be sent directly to the person, division, or unit as requested. If the fax number is not provided by the person, division, or unit, contact the Department’s main reception at (208) 658-2000 to obtain the fax number.


006. PUBLIC RECORDS ACT COMPLIANCE.
The rules of the Board are subject to, and in compliance with, the Idaho Public Records Act.

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Agreement of Supervision. A written agreement prepared by the Department for each offender under supervision by the Board 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 including compliance with the terms and conditions of probation or parole.

02. Assessment of Potential to Re-Offend. Use of an actuarial instrument that has been validated in Idaho to determine the likelihood of an offender engaging in future criminal behavior, measure criminal risk factors, and define specific individual needs.

03. Board. The State Board of Correction.

04. 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.

05. Department. The Idaho Department of Correction.

06. Director. The director of the Idaho Department of Correction.

07. Discretionary Jail Time. A suspended jail sentence imposed as a condition of probation, to be used by the probation officer in increments not to exceed forty-eight (48) hours without prior court approval or as approved by the court.
08. **Division.** The Idaho Department of Correction, Division of Probation and Parole. (2-6-15)

09. **Idaho Response Matrix.** A matrix of graduated sanctions and rewards established by the Board in consultation with the Supreme Court that provides for responding swiftly and certainly to offender violations or compliance with the terms and conditions of probation or parole imposed by the court or the Commission and the Agreement of Supervision with the intent to promote long-term behavioral change. (2-6-15)

10. **Legal and Financial Obligation.** An obligation owed by an offender that was incurred or imposed as a result of the commission of a criminal offense. Includes court costs, fines, fees, cost of supervision and restitution. (6-19-19)

11. **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)

12. **Parolee.** A person who:
   a. Has been released from a facility by the Commission prior to the completion of his sentence; (2-6-15)
   b. Agrees to comply with certain conditions established by the Commission; and (2-6-15)
   c. Remains under the supervision of a PPO for the established period of parole. (2-6-15)

13. **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)

14. **Reward.** An incentive used to acknowledge an offender’s compliance with terms and conditions of probation or parole, the agreement of supervision, the offender management plan or other prosocial behavior. (2-6-15)

15. **Sanction.** A sanction is a response identified in the Idaho Response Matrix (IRM) to be implemented by the PPO to respond to offender behavior that is contrary to the terms and conditions of probation or parole set by the court or Commission or the agreement of supervision. (6-19-19)

16. **Terms and Conditions of Probation or Parole.** The specific terms and requirements, including special terms and conditions, ordered by the court or Commission in the case of a particular offender. (2-6-15)

17. **Violent Misdemeanor.** Any misdemeanor offense that includes, as an element of the offense or as part of the underlying facts:
   a. Physical contact with, or injury to, the person of another; or (6-19-19)
   b. The use of a weapon to cause or threaten harm to another. (6-19-19)

011. **ABBREVIATIONS.**

01. **AOS.** Agreement of Supervision. (2-6-15)

02. **PPO.** Probation and Parole Officer. (2-6-15)

03. **IRM.** The Idaho Response Matrix. (2-6-15)

04. **LSU.** Limited Supervision Unit. (6-19-19)
012. GENERAL SUPERVISION

01. Responding to Non-Compliant Behaviors. (6-19-19)
   a. All alleged violations of the terms and conditions of probation or parole and the AOS that require investigation are investigated and documented within the time limits established by Department policy. (6-19-19)
   b. A report will be sent to the court or Commission any time that discretionary jail time is imposed. (6-19-19)
   c. Non-compliant behaviors that require a report to the court, prosecuting attorney, or Commission under the terms of the IRM will be reported within the time limits established by Department policy. (6-19-19)

02. Encouraging Compliant Behaviors. (6-19-19)
   a. The PPOs will assess an offender's readiness for change regarding the identified needs of the offender throughout the period of supervision. (6-19-19)
   b. When the PPO observes or is made aware of the offender's efforts at prevention of non-compliance with conditions of supervision, or the offender is making progress on targeted behaviors the PPO will promptly provide a reward. Responses available to the PPO to address desired behavior are included in the IRM. (6-19-19)

03. Agreement of Supervision. The AOS developed by the Department will include in non-technical language the specific behavioral restrictions and requirements for the offender, including compliance with the terms and conditions of probation or parole. The Department shall require the AOS and IRM are reviewed with each offender under the supervision of the Board and require each offender to sign the AOS. (6-19-19)

04. Assessment of Potential to Re-Offend. The Department shall require the use of a validated actuarial assessment to determine the potential to re-offend and needs of each offender under the Department's supervision. The policy shall require assessments be performed upon intake for all offenders and at least annually thereafter for offenders whose most recent assessment score is in the moderate or high range of risk to re-offend. All offenders shall be re-assessed after a significant incident that indicates re-assessment should take place e.g. the filing of a special progress report or a probation or parole violation. (6-19-19)

05. Reentry Plan. The Department shall establish policies requiring that requires PPOs to review all actuarial assessments of the potential to re-offend and needs of each offender under the PPOs' supervision. PPO's will use the information to develop an OMP with the offender to establish goals and behaviors that will address the offender's identified needs and encourage compliance with the terms and conditions of probation or parole. (6-19-19)

06. Search of Home, Vehicle, and Property. Any person who resides with an offender under the supervision of the Department while on probation or parole or an offender released on furlough shall have the person's home, vehicle and property, both personal and real, subject to search by a probation and parole officer at reasonable times and in a reasonable manner to extent that the home, vehicle and property are accessible to the offender. The officer shall not need a warrant, reasonable suspicion, or probable cause. (6-19-19)

07. Visits at Place of Employment. Any person who employs an offender under the supervision of the Department while on probation or parole, an offender housed in a community reentry center, or an offender released on furlough shall have the offender's designated work areas subject to inspection by a probation and parole officer at reasonable times and in a reasonable manner. The officer shall not need a warrant, reasonable suspicion, or probable cause. (6-19-19)

013. USE OF IRM. Supervision of Offenders. The Department shall utilize the Idaho Response Matrix (IRM) set forth in Appendix 1 to impose sanctions and rewards in response to an offender's compliance or non-compliance with the terms and conditions of probation or parole imposed by the court, the Commission, or in the AOS. (6-19-19)
014. **ESTABLISHMENT OF LSU.**

The Department shall establish a LSU and will monitor unit success, offender compliance, and oversee caseload and supervision activities.

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**01. Transfer to LSU.**

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**a. Qualifying Factors.** Supervisors will review District staff recommendations for transfer to the LSU. Qualifying Factors. Consideration for transfer to the LSU unit will be based on the following factors:

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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.

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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.

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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.

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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.

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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.

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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.

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**b. Disqualifying Factors.** The following factors disqualify an offender from being considered a candidate for transfer to the limited supervision unit:

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i. **Additional Offenses:**

1. Conviction of a new felony while on active probation or parole in the past twenty-four (24) months;

2. Conviction of a violent misdemeanor in the past twelve (12) months;

3. Conviction of a misdemeanor DUI offense in the past twelve (12) months.

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ii. **Violation in the past twelve (12) months of a term or condition of probation or parole imposed by the court or the Commission resulting in a Level 3 sanction.**

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iii. **Interlock Device.** Any indicator of alcohol use from the state approved ignition interlock system within the past twelve (12) months.

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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.

(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.

(d) Parolee Meeting Early Discharge Criteria. Without regard to the qualifying and disqualifying factors set forth in Subsections 014.01.a. and 01.b., a parolee who has been denied early discharge by the Commission will be eligible for referral to the LSU.

02. Monitoring and Compliance.

(a) Offenders must report on a regular basis.

(b) The PPO or designee must monitor for adherence to offender's condition of supervision to include, but not limited to, searching for the following:

(i) New criminal case filings;

(ii) Status of legal and financial obligations; or

(iii) Warrants.

03. Removal from LSU Unit. The Department may in its discretion remove the offender from the LSU unit and assign the offender to a higher level of supervision.

015. -- 999. (RESERVED)

SEE NEXT TWO PAGES FOR RESPONSE MATRIX / CHART
(APPENDIX 1)
| Item | Description | Response | PPO | Court | FDC | Source
|------|-------------|----------|-----|------|-----|-------|
| 1 | Violation of Parole Terms | Failure to comply with special conditions | Yes | No | No | Source: IAC Archive 2019 C2

Note: The table above is a response matrix for supervision of offenders on probation or parole. It includes various conditions and their respective responses from the PPO, Court, and FDC. The matrix is designed to help parole officers determine appropriate responses based on the severity of the violation. For detailed information, refer to the source cited: IAC Archive 2019 C2.
### Response Chart

<table>
<thead>
<tr>
<th><strong>Rewards</strong></th>
<th><strong>Sanctions</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Level 1</strong></td>
<td><strong>Level 1</strong></td>
</tr>
</tbody>
</table>
| Verbal Recognition | M
| Clean UA certificate | Magnitude |
| Court/Commission recognition | Inc |
| Certificate of completion | Level 2 |
| Good conduct ticket/token (x2) | Rewards |
| Impromptu call to recognize good conduct | Sanctions |
| Approve travel request (in state) | DM written recognition |
| PPO written recognition | Request modification of appropriate condition |
| Reduce reporting requirements | DJT  (48 hours or more) |
| Consider request to modify association restrictions | Directed Action Planning (behavior contract) |
| Enhanced Travel request (out of state) | House Restriction |
| Place on Online Reporting | Directed Action Planning (behavior contract) |
| Ticket/Token exchange (special reward in exchange for earned tickets) | In custody (DOC) programing (request to modify terms and conditions/impose suspended) |

**Sanctions**

<table>
<thead>
<tr>
<th><strong>Level 2</strong></th>
<th><strong>Level 3</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Verbal warning</td>
<td>Noncompliance letter</td>
</tr>
<tr>
<td>Domain/Behavior Specific Programming</td>
<td>Special progress report/warning letter</td>
</tr>
<tr>
<td>Electronic Monitoring</td>
<td>DJT (less than 48 hours)</td>
</tr>
<tr>
<td>Increase level of supervision (increase reporting/testing for 30, 60, 90 days)</td>
<td>Request additional/more restrictive conditions from court/review</td>
</tr>
<tr>
<td>Increase reporting/testing for week</td>
<td>Sheriff’s Inmate Labor Detail (if available in jurisdiction)</td>
</tr>
<tr>
<td>Recovery Planning</td>
<td>Restrictive Curfew</td>
</tr>
<tr>
<td>Travel Restrictions (no out of district/out of state)</td>
<td>DJT (48 hours or more)</td>
</tr>
<tr>
<td>Directed Action Planning (behavior contract)</td>
<td>In custody (DOC) programing (request to modify terms and conditions/impose suspended)</td>
</tr>
<tr>
<td>House Restriction</td>
<td>Directed Action Planning (behavior contract)</td>
</tr>
<tr>
<td>Directed Action Planning (behavior contract)</td>
<td>In custody (DOC) programing (request to modify terms and conditions/impose suspended)</td>
</tr>
</tbody>
</table>

**Sanctions**

<table>
<thead>
<tr>
<th><strong>Level 3</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Written Assignment (Thinking Report, letter of apology, or other report)</td>
</tr>
<tr>
<td>Community Service (when ordered)</td>
</tr>
<tr>
<td>Increase reporting/testing for week</td>
</tr>
<tr>
<td>Sheriff’s Inmate Labor Detail (if available in jurisdiction)</td>
</tr>
<tr>
<td>DJT (48 hours or more)</td>
</tr>
</tbody>
</table>

**Chosing a response:**
1. Consider protective factors;
2. Do not mix higher risk offenders with lower risk offenders;
3. Individualize response based upon what is meaningful (as a reward or sanction) to the offender.

When responding to multiple behaviors, the level shall correspond to the most serious behavior. The PPO may select more than one reward or sanction from the same level or a lower level to respond to multiple behaviors. Use of multiple lower level responses cannot be substituted for a higher level response.
Subject Index

A
Abbreviations, IDAPA 06.02.01 4
AOS 4
IRM 4
LSU 4
PPO 4
Administrative Appeals 3

D
Definitions, IDAPA 06.02.01 3
Agreement of Supervision 3
Assessment of Potential to Re-Offend 3
Board 3
Commission 3
Department 3
Director 3
Discretionary Jail Time 3
Division 4
Idaho Response Matrix 4
Legal & Financial Obligation 4
Offender 4
Parolee 4
Probationer 4
Reward 4
Sanction 4
Terms & Conditions of Probation or Parole 4
Violent Misdemeanor 4

E
Establishment Of LSU 6
Monitoring & Compliance 7
Removal from LSU Unit 7
Transfer to LSU 6

G
General Supervision 5
Agreement of Supervision 5
Assessment of Potential to Re-Offend 5
Encouraging Compliant Behaviors 5
Reentry Plan 5
Responding to Non-Compliant Behaviors 5
Search of Home, Vehicle, & Property 5
Visits at Place of Employment 5

I
Incorporation by Reference 3

L
Legal Authority 2

O
Office – Office Hours – Mailing Address & Street Address 3

P
Public Records Act Compliance 3

T
Title & Scope 2

U
Use Of IRM 5

W
Written Interpretations 2