

**IDAPA 15 – IDAHO OFFICE OF THE GOVERNOR**

**IDAHO DIVISION OF HUMAN RESOURCES**

**15.04.01 – Rules of the Division of Human Resources and  
Idaho Personnel Commission**

**Who does this rule apply to?**

*State agencies and state employees.*

**What is the purpose of this rule?**

*The purpose of these charges are to simplify and clarify IDAPA Rule 15.04.01.*

**What is the legal authority for the agency to promulgate this rule?**

*This rule implements the following statute passed by the Idaho Legislature:*

State Government and State Affairs -

- [Title 67, Chapter 53, Idaho Code](#) – Personnel System

**Who do I contact for more information on this rule?**

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**15.04.01 – RULES OF THE DIVISION OF HUMAN RESOURCES  
AND IDAHO PERSONNEL COMMISSION**

**000. LEGAL AUTHORITY.**

Section 67-5309, Idaho Code. (7-1-24)

**001. SCOPE**

These rules establish the policies and procedures of the Idaho Personnel System. (7-1-24)

**002. -- 005. (RESERVED)**

**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. (7-1-24)

**007. -- 008. (RESERVED)**

**009. DEFINITION.**

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. (7-1-24)

**01. Administrative Leave.** Temporary paid leave from a job assignment where pay and benefits remain intact. (7-1-24)

**02. 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. (7-1-24)

**03. Appellant.** An employee, appointing authority, or applicant filing an appeal or a petition for review with the Commission. (7-1-24)

**04. 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. (7-1-24)

**05. 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 and Idaho Personnel Commission. (7-1-24)

**06. 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. (7-1-24)

**07. Base Pay.** The rate paid for performing a job, excluding bonuses, shift differentials, overtime or other compensation premiums. (7-1-24)

**08. Classified Service.** That body of positions in state agencies subject to Title 67, Chapter 53, Idaho Code, as defined therein and excludes temporary, and nonclassified appointments. (7-1-24)

**09. 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 and Idaho Personnel Commission rules and policies, and agency policies governing employee pay. (7-1-24)

**10. Compensation Schedule.** The pay grades established by the Division and associated rates of pay. (7-1-24)

**11. Consultant.** An independent contractor who provides professional or technical advice, counsel, or service. (7-1-24)

**12. Dismissal.** The separation of an employee from classified service with cause assigned by the appointing authority pursuant to Rule 190. (7-1-24)

13. **Division.** The Idaho Division of Human Resources. (7-1-24)
14. **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) (7-1-24)
15. **Employment History.** The information available to the public without the employee's consent in accordance with Section 74-106, 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. (7-1-24)
16. **Good Cause.** The conduct of a reasonable person in the same or similar circumstances. (7-1-24)
17. **Hay Method.** A methodology for establishing the relative value of jobs and used as a dimension of the pay system. (7-1-24)
18. **Hiring List.** A hiring list is a subset of a register consisting of the top twenty-five (25) individuals on the register, plus all individuals tied for the twenty-fifth position, certified as eligible for a specific recruitment. Candidates for reinstatement or transfer may be considered and are provided in addition to the top twenty-five (25). (7-1-24)
19. **Incumbent.** Any person holding a classified or non-classified position in state service. (7-1-24)
20. **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. (7-1-24)
21. **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. (7-1-24)
22. **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. (7-1-24)
23. **Merit Increase.** The advancement of an employee's compensation within a pay grade based upon performance in accordance with Section 67-5309B(3) and (4), Idaho Code. (7-1-24)
24. **Merit Increase Matrix.** A pay distribution tool used to advance employee pay based on performance and market data. (7-1-24)
25. **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. (7-1-24)
26. **On-Call Time.** Time when an employee is required to be available if called upon by their agency during hours that are outside of their normally defined work schedule. (7-1-24)
27. **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. (7-1-24)
28. **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. (7-1-24)
29. **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. (7-1-24)

**30. 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. (7-1-24)

**31. 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. (7-1-24)

**32. Resignation.** The voluntary quitting or abandonment of state employment, excluding retirement. (7-1-24)

**33. Respondent.** The party whose interests are adverse to those of the appellant. (7-1-24)

**34. Salary Equity Increase.** The advancement of an employee's compensation within a pay grade based upon factors such as market demand, compression within the agency or classification, or inequities. (7-1-24)

**35. 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 Rule 190. (7-1-24)

**36. 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 Rule 152. (7-1-24)

**37. 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. (7-1-24)

**38. Underfill.** Administrator-approved appointment to a position established at a higher classification while being compensated at a lower pay grade during completion of a training plan. (7-1-24)

**39. 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. (7-1-24)

**40. Workweek.** A period of seven (7) consecutive days beginning 12:01 a.m. Sunday. (7-1-24)

**010. -- 019. (RESERVED)**

**020. BASIC MERIT AND SALARY 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. (7-1-24)

**01. Examinations.** Examinations shall be designed to evaluate factors pertinent to an individual's ability to perform competently the duties of the classification. (7-1-24)

**a. Content of Examinations.** Examinations may include any questions, tests or criteria designed to evaluate the suitability of applicants for job openings within a classification. (7-1-24)

**b. Job Analysis and Confidentiality.** No information concerning the specific content of the examination will be divulged to unauthorized personnel by the Division or other personnel who have access to the examinations. (7-1-24)

**02. Eligible Candidates.** The appointing authority shall make a selection from a hiring list containing eligible candidates. (7-1-24)

**a. Failing Score.** Failure in any part of the examination may disqualify an applicant in the entire examination and from having his name placed on the hiring list. (7-1-24)

**03. Authorized Pay Rates.** 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. (7-1-24)

**a.** 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. (7-1-24)

**b.** Salary Equity Increases. An appointing authority may, with approval by the administrator, advance an employee's salary within a pay grade based upon factors such as market demand, to address compression within an agency or classification, or inequities. (7-1-24)

**c.** Salary Upon Transfer. A transfer between agencies 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. 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. (7-1-24)

**d.** Salary Upon Reinstatement. Unless related to reemployment after a layoff, the salary of a reinstated employee is negotiable between the employee and appointing authority in the current pay grade for the classification in which the employee has reinstatement privileges. (7-1-24)

**e.** Salary After Reappointment from Layoff. Employees appointed by the agency that laid them off 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. (7-1-24)

**f.** 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 a comparable rate in the current pay grade for the classification to which they were assigned prior to leaving for military service. (7-1-24)

**g.** 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 Rule 190. (7-1-24)

## **021. BASIC REQUIREMENTS FOR VETERANS AND MILITARY PERSONNEL.**

**01. 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. (7-1-24)

**02. Return from Military Duty.** An employee returning from military leave without pay 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. (7-1-24)

**03. 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 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. (7-1-24)

**04. Veterans' Preference Points.** (7-1-24)

**a.** Veterans' and disabled veterans' preference points must not be used to achieve a passing score.

(7-1-24)

**b.** Veterans' and disabled veterans' preference points, when applicable under state law, will be added to the final score achieved in the examinations. Five (5) points will be added to the earned rating of any veteran, as defined in Section 65-203, Idaho Code, and the widow or widower of any veteran, as defined in Section 65-203, Idaho Code, as long as the widow or widower remains unmarried. (7-1-24)

**c.** Disabled veterans', Purple Heart recipients, spouses of any eligible disabled veterans who cannot qualify for any public employment because of a service-connected disability, and unmarried widows or widowers of disabled veterans 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. (7-1-24)

**d.** Disabled veterans who have a current service-connected disability of thirty percent (30%) or more will be offered an interview when their final score places them on the hiring list. If more than ten (10) disabled veterans with a disability rating of thirty percent (30%) or more place on a hiring list, at least ten (10) will be offered an interview. (7-1-24)

**022. 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. (7-1-24)

**023. 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. (7-1-24)

**024. -- 059. (RESERVED)**

**060. ANALYSIS OF CLASSIFICATIONS.**

The Division 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. (7-1-24)

**061. 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. (7-1-24)

**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. (7-1-24)

**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. (7-1-24)

**062. 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. (7-1-24)

**02. Revised and Deleted Classifications.** Revised classifications with no fiscal impact and classifications deleted from the classification schedule require approval only of the administrator. (7-1-24)



**063. 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. (7-1-24)

**064. RECLASSIFICATION OF POSITIONS.**

**01. Procedure.** Positions may be reclassified in the same pay grade, upward, or downward as determined by an analysis by the Division 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. (7-1-24)

**02. Effective Date.** Reclassifications of positions are not 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 may not precede the effective date of the reclassification of the position. (7-1-24)

**065. (RESERVED)**

**066. COMPENSATION SURVEYS.**

**01. Salary Surveys.** The Division will conduct or approve salary surveys, to determine salary ranges that represent labor market average rates for Hay point factored positions in classified service. (7-1-24)

**02. 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. (7-1-24)

**067. CALCULATION OF PAY.**

**01. Standard Calculation of Pay.** For other than police, correctional officers, or fire employees, pay is calculated in the following order: (7-1-24)

- a. Holiday pay; (7-1-24)
- b. All hours worked on a holiday as overtime; (7-1-24)
- c. All hours worked over forty (40) in the workweek as overtime, excluding occasional or sporadic work; (7-1-24)
- d. Vacation, sick and other paid or unpaid leaves; and (7-1-24)
- e. All remaining hours worked at the employee's regular rate of pay. (7-1-24)

**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. 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. (7-1-24)

**068. -- 079. (RESERVED)**

**080. METHODS OF RECRUITMENT.**

For the purpose of establishing eligibility registers, there are three (3) methods of recruitment: open competitive, agency promotional, or statewide promotional. (7-1-24)

**081. -- 118. (RESERVED)**

**119. 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. (7-1-24)

**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 (7-1-24)

**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 kept in the employee's personnel file. (7-1-24)

**120. SEASONAL APPOINTMENT.**

**01. 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. (7-1-24)

**121. TEMPORARY APPOINTMENTS (NON-CLASSIFIED).**

**01. Hours Limitation.** 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 agency. Both calculations begin on the date of the original temporary appointment. (7-1-24)

**02. Transition to Classified Service.** Temporary employees who have served at least one thousand forty (1,040) hours of continuous service, may go from temporary status to classified entrance probation status in that same position without further application if the announcement for the temporary position from which the certified register was created indicates 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. (7-1-24)

**122. (RESERVED)**

**123. REINSTATEMENTS.**

**01. Eligibility.** 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. (7-1-24)

**a.** Reinstatement is limited to a period equal to the length of the employee's probationary and permanent employment combined. (7-1-24)

**b.** The current or former employee must meet the current minimum qualifications of the classification to which reinstatement is desired. (7-1-24)

**02. Examination.** A current or former employee may be required to pass an examination for the classification to which reinstatement is desired. (7-1-24)

**03. Probationary Period.** An appointing authority may negotiate for a probationary period as a condition of reinstatement except where prohibited. (7-1-24)

**124. TRANSFERS.**

**01. Authority to Transfer.** An appointing authority may transfer an employee at any time from one position to another in the same classification. (7-1-24)

**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. (7-1-24)

**03. Probationary Period.** An appointing authority may negotiate with an employee for a probationary period as a condition for a voluntary transfer. (7-1-24)

**04. 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. (7-1-24)

**125. 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. (7-1-24)

**02. Rescission and Reinstatement.** Once an employee has submitted a resignation, reinstatement is in the discretion of the appointing authority as. The appointing authority may but is not required to allow an employee to rescind a resignation prior to its effective date. (7-1-24)

**03. Resignation in Lieu of Dismissal.** An employee may resign in lieu of being dismissed for cause. (7-1-24)

**126. -- 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: (7-1-24)

**a.** The incumbent of the position in the higher classification is on authorized leave of absence. (7-1-24)

**02. Minimum Qualifications.** To be eligible for an acting appointment, an employee must meet the minimum qualifications of the class. (7-1-24)

**130. LIMITATION ON LENGTH OF APPOINTMENT.**

Acting appointments are limited to the period of time necessary to fill the vacancy pursuant to procedures prescribed in these rules but in no case can continue beyond one thousand forty (1,040) hours of credited state service unless specifically extended by the administrator. (7-1-24)

**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. (7-1-24)

**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 expires. The acting appointee is returned to the class, the pay grade and rate held immediately preceding the acting appointment. (7-1-24)

**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. (7-1-24)

**133. -- 139. (RESERVED)**

**140. REDUCTION IN FORCE.**

**01. Conditions for Layoff.** An appointing authority may lay off an employee whenever necessary due to: shortage of funds or work; reorganization; the end of a limited service appointment; employee's failure to complete interagency promotional probation when demotion options are not available; or abolishment of one (1) or more positions. (7-1-24)

**02. Layoff by Position.** Reduction in force must be by classification of position. (7-1-24)

**a.** Reduction in force may be limited to or specifically exclude employees appointed under selective certification 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. (7-1-24)

**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 with exclusions approved in advance by the administrator. (7-1-24)

**c.** 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. (7-1-24)

**03. 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. (7-1-24)

**04. 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. (7-1-24)

**05. 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. More than one (1) pay grade change downward is considered a layoff, unless the change of duties is disciplinary. (7-1-24)

**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, classified credited state service, and veterans' preference as described in Rule 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

(7-1-24)

**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. (7-1-24)

**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 Rule 141.01. (7-1-24)

**03. Veterans' Preference.** Veterans as defined in Title 65, Chapter 2, 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. (7-1-24)

**04. Calculation Date Cutoff.** No points will be calculated for the sixty (60) days prior to the effective date of the layoff. (7-1-24)

**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. (7-1-24)

**142. CREDITED STATE SERVICE.**  
Eligible credited state service for purposes of Rule 140 is defined as follows: (7-1-24)

**01. Service Prior to State Personnel System.** All credited state service prior to the establishment of classified service, Title 67, Chapter 53, Idaho Code. (7-1-24)

**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. (7-1-24)

**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. (7-1-24)

**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 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: (7-1-24)

**a.** The employee with the highest total retention points for the past thirty-six (36) months. (7-1-24)

**b.** Random selection. (7-1-24)

**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. (7-1-24)

**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. (7-1-24)

**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. 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. An employee or former employee may request their name be removed at any time. (7-1-24)

**145. USE OF REGISTERS WITH REEMPLOYMENT PREFERENCE.**

**01. Priority for Reemployment by Agency that Conducted the Layoff.** (7-1-24)

**a.** The employee who has been laid off will be offered reemployment to a position in the classification from which laid off, 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. (7-1-24)

**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 Rule 240.01 and those that took a voluntary demotion in lieu of layoff. (7-1-24)

**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. (7-1-24)

**02. Consideration for Hire by Other Agencies.** For promotional opportunities individuals who have been laid off must be offered the opportunity to interview. (7-1-24)

**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. (7-1-24)

**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-month (12) period if otherwise eligible. (7-1-24)

**146. (RESERVED)**

**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 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. (7-1-24)

**01. Eligibility.** (7-1-24)

**a.** Qualified. Employee must meet the classification's current minimum qualifications and any minimum qualification specialties. (7-1-24)

**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. (7-1-24)

**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. (7-1-24)

**148. -- 149. (RESERVED)**

**150. PROBATIONARY PERIODS.**

**01. Probationary Period Required.** Every appointment and promotion to a classified position is

probationary. (7-1-24)

**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: (7-1-24)

**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. (7-1-24)

**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. (7-1-24)

**c.** Voluntary probation is an agreement between employees and the appointing authority for employment actions such as reinstatement, transfer, or voluntary demotion. 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. (7-1-24)

**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. (7-1-24)

**04. Interruption of Probationary Period.** The probationary period in any classification must be completed within a single agency uninterrupted by termination or dismissal. An employee who separated during the probationary period must begin a new probationary period upon reappointment or promotion. (7-1-24)

**05. Temporary Service Credit.** At the request of the hiring agency, the administrator will allow temporary 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 duties must be substantially the same as the regular permanent appointment. (7-1-24)

**06. Acting Service Credit.** At the request of the hiring agency, the administrator will allow acting appointment service time in a given classification to be used toward fulfilling the promotional probationary requirement in that classification as established in Section 67-5309(j), Idaho Code. The acting appointment duties must be substantially the same as the regular permanent appointment. (7-1-24)

**151. SATISFACTORY SERVICE.**

When a probationary employee has satisfactorily served the probationary period hours, the employee will become permanent status. Certification to permanent status is effective one thousand forty (1,040) hours of credited state service after appointment, except that it is effective two thousand eighty (2,080) hours of credited state service after appointment for peace officer classifications unless either period has been extended (7-1-24)

**152. SEPARATION DURING PROBATION.**

**01. Notification.** If a probationary employee does not serve satisfactorily, the appointing authority must provide the employee and the Division a performance evaluation indicating unsatisfactory performance. (7-1-24)

**02. During Entrance and Voluntary Probation.** (7-1-24)

**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. (7-1-24)

**b.** Notice to the employee of termination for unsatisfactory service must be made at least fifteen (15) calendar days prior to the effective date of termination, unless there are extenuating circumstances. (7-1-24)

**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. (7-1-24)

**02. During Promotional Probation.** If an employee on promotional probation does not meet performance expectations: (7-1-24)

**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. (7-1-24)

**b.** If no position is available for the voluntary demotion option, the employee may be laid off and may request their name be placed on a register for the classification where they last held permanent status. (7-1-24)

**c.** When reinstatement occurs in the classification they promoted from, the employee's name is removed from reemployment required preference status. (7-1-24)

**154. FAILURE TO PROVIDE PERFORMANCE EVALUATION.**

If the appointing authority fails to provide a performance evaluation, the employee shall be considered to have satisfactorily completed the probationary period and be certified to permanent status as provided unless the probationary period has been extended by the administrator. (7-1-24)

**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. (7-1-24)

**160. -- 168. (RESERVED)**

**169. PROMOTIONS.**

**01. Interagency Promotions.** All interagency promotions must be made using statewide promotional registers (Ref. Rule 101.03) (7-1-24)

**02. Eligibility for Promotion.** Promotional appointees must have permanent status (Ref. Rule 159) and meet the minimum qualifications of the promotional classification. (7-1-24)

**03. 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 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. (7-1-24)

**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. (7-1-24)

**180. (RESERVED)**

**181. -- 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: (7-1-24)

**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 and Idaho Personnel Commission. (7-1-24)

**b.** Inefficiency, incompetency, or negligence in performing duties, or job performance that fails to meet established performance standards. (7-1-24)

**c.** Physical or mental incapability for performing assigned duties, if a reasonable accommodation cannot be made for the disabling condition. (7-1-24)

**d.** Refusal to accept a reasonable and proper assignment from an authorized supervisor. (7-1-24)

**e.** Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the agency. (7-1-24)

**f.** Intoxication or being under the influence of alcohol, or the misuse of medications or controlled substances, while on duty. (7-1-24)

**g.** Careless, negligent, or improper use or unlawful conversion of state property, equipment, or funds. (7-1-24)

**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. (7-1-24)

**i.** Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude. (7-1-24)

**j.** Acceptance of gifts in exchange for influence or favors given in the employee's official capacity. (7-1-24)

**k.** Habitual pattern of failure to report for duty at the assigned time and place. (7-1-24)

**l.** Habitual improper use of sick leave. (7-1-24)

**m.** Unauthorized disclosure of confidential information from official records. (7-1-24)

**n.** Unapproved absence without leave. (7-1-24)

**o.** Misstatement or deception in application for employment. (7-1-24)

**p.** Failure to obtain or maintain a current license or certificate lawfully required as a condition in performance of duties. (7-1-24)

**q.** Prohibited participation in political activities. (7-1-24)

**02. Suspension for Investigation.** An appointing authority may place an employee on administrative

leave for investigation of disciplinary causes enumerated in Rule 190.01. Each suspension for investigation will be superseded by reinstatement to duty, dismissal, disciplinary demotion, or 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. (7-1-24)

**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. (7-1-24)

**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. (7-1-24)

**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 set forth the specific rules violated and the reasons for the action. Suspensions with pay for investigation may be made without prior notice to the employee; in this case, the appointing authority must notify the administrator as soon as practical. (7-1-24)

**191. -- 199. (RESERVED)**

**200. PROBLEM-SOLVING AND DUE PROCESS PROCEDURES.**

**01. Overview of Procedures.** (7-1-24)

**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 may be appealed in accordance with Rule 201. (7-1-24)

**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. (7-1-24)

**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 Rule 200. (7-1-24)

**03. Eligibility and Time for Filing Under Problem-Solving Procedure.** Any classified employee with permanent, 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. 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. (7-1-24)

**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 within the employee's chain of command 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 unless both the employee and the agency agree, in writing, to a specific number of days to extend the timelines herein, not to exceed thirty (30) 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. (7-1-24)

**05. Filings Alleging Sexual Harassment or Other Illegal Discrimination.** Each agency'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 require that the investigation and resolution of them be conducted with maximum regard for confidentiality. (7-1-24)

**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 five (5) working days after the employee has received notice, unless an extension is approved by the appointing authority 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 agency's decision not later than five (5) working days thereafter, excluding days the appointing authority, or designee, is out of the office, or for other extenuating circumstances. The extension will be communicated to the employee 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. 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. (7-1-24)

**07. Notification.** A copy of the approved problem-solving and due process procedures must be furnished and explained to each employee with permanent, or entrance probationary status in the agency concerned. (7-1-24)

## **201. APPEAL PROCEDURE.**

**01. Filing of Appeal and Appearances.** Every appeal filed with the Commission must be written and 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. (7-1-24)

**02. 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. (7-1-24)

**03. 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 Rule 202.01. 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. (7-1-24)

**04. 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. (7-1-24)

**05. 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. (7-1-24)

**06. Decision of Hearing Officer.** The hearing officer must issue a decision in the form of a preliminary order explaining 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 with a copy sent or delivered to the parties. A motion for reconsideration under Section 67-5243, Idaho Code, is not permitted. (7-1-24)

## **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 specifically cite the alleged errors of fact or law made by the hearing officer. (7-1-24)

**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 will be automatically stayed. (7-1-24)

**03. Nature of Hearing.** The hearing of the Commission on a petition for review will 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 will be allowed under such terms as the Commission may direct in its notice of hearing, which will be issued at least twenty-eight (28) days prior to the date set for hearing. (7-1-24)

**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 may pay for an additional copy of the transcript for respondent's own use. (7-1-24)

**05. Requests for Postponement and Other Motions.** (7-1-24)

**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. (7-1-24)

**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. (7-1-24)

**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. (7-1-24)

**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. (7-1-24)

**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. (7-1-24)

**09. Protective Orders.** The Commission may issue protective orders limiting access to information in the record. (7-1-24)

**203. -- 209. (RESERVED)**

**210. PERFORMANCE EVALUATIONS.**

**01. Performance Evaluations.** Each agency shall use the statewide online performance evaluation system. (7-1-24)

**02. Use of Evaluations.** Performance evaluations should be used in connection with promotions, transfers, demotions, retentions, separations, and reassignments and used as the affirmative certification for merit increases, bonuses, and salary equity increases and for certifying a probationary employee to permanent status. Other uses of performance evaluations are optional with the appointing authority. (7-1-24)

**03. Evaluation Schedule.** All classified employees must be evaluated for their performance during probationary periods for appointments and promotions and for every two thousand eighty (2,080) hours of credited state service thereafter (generally, an annual basis). Part-time employees must be evaluated on an annual basis. (7-1-24)

**211. -- 239. (RESERVED)**

**240. WORKERS' COMPENSATION OR DISABILITY.**

**01. Layoff After Twelve Weeks Disability.** If the employee becomes disabled, whether or not due to a workers' compensation injury, and is unable to fully return to work after twelve (12) weeks' absence during any consecutive fifty-two (52) week period the employee's position may be declared vacant unless otherwise prohibited by state or federal law. The twelve (12) weeks' period of absence need not occur consecutively. 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. Conditional releases will be considered in accordance with the Americans with Disabilities Act. (7-1-24)

**241. 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 240.01, 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. 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. (7-1-24)

**242. -- 249. (RESERVED)**

**250. ADMINISTRATIVE LEAVE.**

**01. Investigation and Due Process Procedure.** Administrative leave may be granted by an appointing authority for employee investigations and due process procedures in accordance with Rule 190.02. (7-1-24)

**02. Closure or Inaccessibility.** Administrative leave for closure or inaccessibility of a state office/ facility due to severe weather, emergencies or incidents that could jeopardize agency operations, or the safety of others. (7-1-24)

**03. Other Reasons.** Administrative leave for reasons other than those listed above must be approved in advance by the administrator. (7-1-24)

**251. -- 271. (RESERVED)**

**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 Administrator may issue guidance to provide consistent interpretation of federal law, state law, executive order or rule. Statewide policies governed by the administrator shall be adopted by appointing authorities. (7-1-24)

**273. -- 999. (RESERVED)**