IDAPA 59 – PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

Chapter 13 –Title 59, Idaho Code

59.01.01 – Rules for the Public Employee Retirement System of Idaho (PERSI)

Who does this rule apply to?
The following stakeholders in the public employee retirement system:

- members
- employers
- state agencies
- political subdivisions
- government entities

What is the purpose of this rule?
PERSI rules are established for the efficient and effective administration of the PERSI plan as established by the legislator in Chapter 13, Title 59, Idaho Code.

What is the legal authority for the agency to promulgate this rule?
This rule implements the following statutes passed by the Idaho Legislature:

Public Officers in General -
Public Employee Retirement System:

- 59-1301, Idaho Code - Public employee retirement system created — Purpose — Duties of fiduciaries of retirement fund
- 59-1314, Idaho Code – Rules — Procedures for hearings prior to appeals — Appeals
- 59-1372, Idaho Code - Transfer of all assets, liabilities, duties, obligations and rights to employee system
- 59-1383, Idaho Code - Transfer of assets, liabilities, duties, and rights to state employee system — Governing board of city system abolished
- 59-1392, Idaho Code - Transfer of all assets, liabilities, duties, obligations and rights of the firefighters' retirement fund to the employee system

Who do I contact for more information on this rule?

PERSI
8:00am – 5:00pm
607 North 8th Street
Boise, Idaho 83702
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IDAPA 59 – PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

59.01.01 – RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

001. LEGAL AUTHORITY.
All PERSI rules are adopted under the legal authority of Sections 50-1507, 50-1508, 50-1524, 59-1301, 59-1314, 59-1372, 59-1383, 59-1392, and 72-1405, Idaho Code. (3-20-20)

002. INCORPORATION BY REFERENCE.
PERSI adopts through incorporation by reference as if set forth fully herein, the following Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01, updated by the Attorney General on April 7, 2011 (IDAPA 04.11.01): 004, 005, 051, 052, 100, 101, 103, 104, 153, 154, 157, 201, 203-206, 240, 280, 304, 416, 417, 500, 501, 510-513, 520-524, 526, 527, 529, 530, 553-555, 558-565, 600-605, 610-614, 651, 701, 702, 710, 720, 750, 760, 770, 780, 791, 800, 810, 812, 814, 815, 820, 822, 832, 834, 840, 850, and 860. (3-20-20)

003. WRITTEN INTERPRETATIONS – AGENCY GUIDELINES.
Written interpretations of these rules, to the extent they exist, are available from PERSI, at the Boise Office at 607 North Eighth Street, Boise, Idaho 83702. (3-20-20)

004. ADMINISTRATIVE APPEAL.
Administrative appeals are conducted pursuant to these rules. (3-20-20)

005. DEFINITIONS.
The definitions in Section 59-1302, Idaho Code, and the following apply to this chapter: (3-20-20)

01. Active Member. A member participates in the active member allocation only if they are active and have at least twelve (12) months of accrued membership service on the last day of the fiscal year. For purposes of allocating extraordinary gains, active members also include: (3-20-20)

a. Seasonal employees who have a pattern of employment that includes at least six (6) months of membership service in each of the preceding three (3) consecutive years; and (3-20-20)

b. Employees who are on leave of absence on the last day of the fiscal year and either: (3-20-20)

i. Return to active service for at least thirty (30) days before December 31 immediately following the end of the fiscal year; or (3-20-20)

ii. Are entitled to benefits under the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA). (3-20-20)

02. Actuary. This is the actuary retained by the Board. (3-20-20)

03. Administrator. The Board. (3-20-20)

04. Applicant. "Applicant" means an applicant for disability retirement under Section 59-1352, Idaho Code, or an individual requesting resumption of a disability retirement allowance under Section 59-1354A, Idaho Code. (3-20-20)

05. Base Plan or Account. This is the PERSI defined benefit plan not including gain sharing allocations or interest thereon, or the individual accounts therein. (3-20-20)

06. Board. "Board" means the governing authority of the Public Employee Retirement System of Idaho as provided by Section 59-1304, Idaho Code, of the Firefighters' Retirement Fund created by Chapter 14, Title 72, Idaho Code, and the Policeman's Retirement Fund created by Chapter 15, Title 50, Idaho Code. (3-20-20)

07. Choice Plan or Account. This includes two (2) elements: (3-20-20)

a. The defined contribution component of the PERSI plan consisting of gain sharing allocations together with earnings thereon or the individual accounts therein; and (3-20-20)

b. The plan designated to receive voluntary and employer contributions as provided in Section 59-

1308, Idaho Code, or the individual accounts therein. (3-20-20)

08. **Code**. The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the IRS Code are to such sections as they may from time to time be amended or renumbered. (3-20-20)

09. **Compensation**. "Compensation" as used in Section 59-1342(6), Idaho Code, means "salary" as defined by Section 59-1302(31), Idaho Code. (3-20-20)

10. **Court Security**. "Court Security" as used in Section 59-1303(3)(g), Idaho Code, means the employee's primary responsibilities are designated by court order to quell disturbances in the courthouse, to prevent the escape of prisoners, to exclude weapons from the courthouse, and to perform other related courthouse security matters. (3-20-20)

11. **Date of Retirement**. "Date of retirement" means the effective date on which a retirement allowance becomes payable. (3-20-20)

12. **Designated Beneficiary**. The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under section 401(a)(9) of the IRS Code and section 1.40l(a)(9)-4, Q&A-4, of the Treasury regulations. (3-20-20)

13. **Employed In The Same Position Until Retired.** As used in Section 59-1303(7), Idaho Code, "employed in the same position until retired" means the same job classification or position including continued employment in any revised job classification or new position title evolving from the same position as the result of personnel reclassification procedures provided the continued employment remains with the same state agency or within the same department of a political subdivision. (3-20-20)

14. **Employer**. "Employer" means the state of Idaho or any political subdivision or governmental entity, provided such subdivision or entity has elected to come into the system. Governmental entity means any organization composed of units of government of Idaho or organizations funded only by government or employee contributions or organizations who discharge governmental responsibilities or proprietary responsibilities that would otherwise be performed by government. A political subdivision and government entity also means an entity that meets each of the requirements of Paragraphs a. through c. of this definition, taking into account all of the facts and circumstances. Entities that may qualify as political subdivisions include, among others, general purpose governmental entities, such as cities and counties (whether or not incorporated as municipal corporations), and special purpose governmental entities, such as special assessment districts that provide for roads, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvements, and other governmental purposes for a State or local governmental unit. (3-20-20)

a. Sovereign powers. Pursuant to a state or local law of general application, the entity has a delegated right to exercise a substantial amount of at least one (1) of the following recognized sovereign powers of a state or local governmental unit: The power of taxation, the power of eminent domain, and police power. (3-20-20)

b. Governmental purpose. The entity serves a governmental purpose. The determination of whether an entity serves a governmental purpose is based on, among other things, whether the entity carries out the public purposes that are set forth in the entity's enabling legislation and whether the entity operates in a manner that provides a significant public benefit with no more than incidental private benefit. (3-20-20)

c. Governmental control. A state or local governmental unit exercises control over the entity. For this purpose, control is defined in Subparagraph 005.08.c.i. of this rule and a state or local governmental unit exercises such control only if the control is vested in persons described in Subparagraph 005.08.c.ii. of this rule. (3-20-20)

i. Definition of control. "Control" means an ongoing right or power to direct significant actions of the entity. Rights or powers may establish control either individually or in the aggregate. Among rights or powers that may establish control, an ongoing ability to exercise one or more of the following significant rights or powers, on a discretionary and non-ministerial basis, constitutes control: the right or power both to approve and to remove a majority of the governing body of the entity; the right or power to elect a majority of the governing body of the entity in periodic elections of reasonable frequency; or the right or power to approve or direct the significant uses of funds

or assets of the entity in advance of that use. Procedures designed to ensure the integrity of the entity but not to direct significant actions of the entity are insufficient to constitute control of an entity. Examples of such procedures include requirements for submission of audited financial statements of the entity to a higher level state or local governmental unit, open meeting requirements, and conflicts of interest limitations. (3-20-20)

ii. Control vested in a state or local governmental unit or an electorate. Control is vested in persons described as a state or local governmental unit possessing a substantial amount of each of the sovereign powers and acting through its governing body or through its duly authorized elected or appointed officials in their official capacities or an electorate established under applicable state or local law of general application, provided the electorate is not a private faction. (3-20-20)

iii. Definition of "private faction." A private faction is any electorate if the outcome of the exercise of control described in Subparagraph 005.08.c.i. of this rule is determined solely by the votes of an unreasonably small number of private persons. The determination of whether a number of such private persons is unreasonably small depends on all of the facts and circumstances, including, without limitation, the entity's governmental purpose, the number of members in the electorate, the relationships of the members of the electorate to one another, the manner of apportionment of votes within the electorate, and the extent to which the members of the electorate adequately represent the interests of persons reasonably affected by the entity's actions. For purposes of this definition, an electorate is a private faction if any three (3) private persons that are members of the electorate possess, in the aggregate, a majority of the votes necessary to determine the outcome of the relevant exercise of control. Provided however, an electorate is not a private faction if the smallest number of private persons who can combine votes to establish a majority of the votes necessary to determine the outcome of the relevant exercise of control is greater than ten (10) persons. For example, if an electorate consists of twenty (20) private persons with equal, five-percent (5%) shares of the total votes, that electorate is not a private faction because a minimum of eleven (11) members of that electorate is necessary to have a majority of the votes. By contrast, for example, if an electorate consists of twenty (20) private persons with unequal voting shares in which some combination of ten (10) or fewer members has a majority of the votes, then that electorate does not qualify for the safe harbor from treatment as a private faction under this subparagraph. The following rules apply for purposes of determining numbers of voters and voting control in Subparagraph 005.08.c.iii. of this rule, related parties (as defined in 26 CFR Section 1.150–1(b)) are treated as a single person; and in computing the number of votes necessary to determine the outcome of the relevant exercise of control, all voters entitled to vote in an election are assumed to cast all votes to which they are entitled. (3-20-20)

15. Employment. "Employment" as used in Section 59-1302(14)(B)(b), Idaho Code, shall mean the period of time from a member's date of hire to the member's succeeding date of separation from that state agency, political subdivision or government entity. Placing a member on leave of absence with or without pay shall not be considered as a separation from the employer. (3-20-20)

16. Firefighters' Retirement Fund. "Firefighters' Retirement Fund" or "FRF" is the retirement fund provided by Chapter 14, Title 72, Idaho Code. (3-20-20)

17. Gain Sharing. This refers to the process of allocating extraordinary gains from the base plan into the defined contribution component of the PERSI plan as permitted in Section 414(k) of the Internal Revenue Code and as provided by Section 59-1309, Idaho Code, and these rules. (3-20-20)

18. General Member. "General member" is a PERSI member not classified as a police officer, firefighter, or paid firefighter. (3-20-20)

19. Likely. For the purpose of Section 59-1302(12)(b), Idaho Code, "likely" means with reasonable medical certainty. (3-20-20)

20. Normal Retirement Age. The age (or combination of age and years of service) at which a Member is entitled to an actuarially unreduced retirement benefit under the Plan. A Member will be fully vested upon attainment of Normal Retirement Age. (3-20-20)

21. Occupational Hazard. "Occupational Hazard" means an injury or ailment solely resulting from the work an applicant does or from the environment in which an applicant works. (3-20-20)

22. Pension Protection Act Definitions. Solely for purposes of the implementation by PERSI of section 402(l) of the Internal Revenue Code, the following definitions apply: (3-20-20)

a. Chaplain. Any individual serving as an officially recognized or designated member of a legally organized volunteer fire department or legally organized police department, or an officially recognized or designated public employee of a legally organized fire or police department who was responding to a fire, rescue, or police emergency. (3-20-20)

b. Eligible Retired Public Safety Officer. An individual who, by reason of disability or attainment of normal retirement age, is separated from service as a public safety officer with the state agency, political subdivision or government entity who maintains the eligible retirement plan from which distributions are made. (3-20-20)

c. Normal Retirement Age. The member's age at the time that the member is eligible to retire with an unreduced benefit. (3-20-20)

d. Public Safety Officer. An individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, as a firefighter, as a chaplain, or as a member of a rescue squad or ambulance crew. (3-20-20)

23. Permissive Service Credits. This includes all credits obtained through voluntary purchase but does not include service obtained through repayment of a separation benefit under Section 59-1363, Idaho Code. (3-20-20)

24. Police Officer. "Police officer" means an employee who is serving in a position as defined in Section 59-1303, Idaho Code. (3-20-20)

25. Police Officer Member For Purposes Of Retirement Eligibility. The words "will be deemed to be a police officer member for purposes of retirement eligibility" as used in Section 59-1303(7), Idaho Code, means the member shall have a service retirement ratio of 1.000 provided for by Section 59-1341, Idaho Code. (3-20-20)

26. Primary Employer. The primary employer is the state agency, political subdivision or government entity from whom the employee receives the highest aggregate salary per month. (3-20-20)

27. Public Employee Retirement System of Idaho. "Public Employee Retirement System of Idaho" or "PERSI" is the retirement system created by Chapter 13, Title 59, Idaho Code. (3-20-20)

28. Required Beginning Date. The date specified in Section 508.02 of these rules. (3-20-20)

29. Retiree. Retiree includes any member, contingent annuitant, or surviving spouse, receiving regular monthly allowances at the close of the fiscal year. It also includes members receiving a monthly disability retirement allowance, surviving spouses who elected an annuity option under Section 59-1361(5), Idaho Code, and members who were inactive at the close of the fiscal year but retire on or before the first day of January following the end of the fiscal year, retroactive to the first day of June of the fiscal year or earlier. (3-20-20)

30. Same Position. "Same position" as set forth in Section 59-1303(7), Idaho Code, means the same job classification or position title including continued employment in any revised job classification or new position title evolving from that same position as the result of personnel reclassification procedures provided the continued employment remains within the same state agency or within the same department of a political subdivision. (3-20-20)

31. Service. For the purposes of Sections 536 and 539, "service" includes only service for which the member is normally in the administrative offices of the state agency, political subdivision or government entity or normally required to be present at any particular work station for the state agency, political subdivision or government entity. (3-20-20)

32. Surviving Spouse. "Surviving spouse" is a person as defined in Section 15-2-802, Idaho Code. (3-20-20)

33. **Teacher**. "Teacher" is defined as a school employee who is required to be certified. (3-20-20)

34. **Transportation Of Prisoners**. "Transportation of prisoners" as used in Section 59-1303(3)(g), Idaho Code, means the employee's primary responsibility is designated by court order to move prisoners from one (1) place to another. (3-20-20)

006. -- 010. (RESERVED)

SUBCHAPTER A – PERSI RULES OF ADMINISTRATIVE PROCEDURE
Rules 011 through 099

011. COMMUNICATIONS WITH AGENCY -- IDENTIFICATION -- FILING.
All written communications and documents that are intended to be a part of an official record for a decision in a contested case must be filed with the officer designated by the agency. Communications addressing or pertaining to a given proceeding must be written under that proceeding's case caption and case number if assigned. Otherwise, such communications must specifically refer to the subject matter. Unless otherwise provided by statute, rule, order or notice, documents are considered filed when received by the officer designated to receive them, not when mailed. (3-20-20)

012. SERVICE ON PARTIES AND OTHER PERSONS.
All documents intended to be part of the agency record for decision must be served upon the representatives of each party of record concurrently with filing with the officer designated by the agency to receive filings. In a contested case, when a document has been filed by FAX, it must be served upon all other parties with FAX facilities by FAX and upon the remaining parties by overnight mail, hand delivery, or the next best available service if these services are not available. The presiding officer may direct that some or all of these documents be served on interested or affected persons who are not parties. (3-20-20)

013. PROOF OF SERVICE.
Every document filed with and intended to be part of the agency record must be attached to or accompanied by proof of service by the following or similar certificate:

> I HEREBY CERTIFY (swear or affirm) that I have this day of_____, served the foregoing name(s) or titles of document(s) upon all parties of record in this proceeding by delivering a copy thereof in person: (list names) by mailing a copy thereof, properly addressed with postage prepaid, to: (list names).
>
> (Signature)
> (Title) (3-20-20)

014. SERVICE BY AGENCY.
Unless otherwise provided by statute or these rules, the officer designated by the agency to serve rules, notices, summonses, complaints, and orders issued by the agency may serve these documents by United States mail, to a party's last known mailing address or by personal service. Unless otherwise provided by statute, these rules, order or notice, service of orders and notices is complete when a copy, properly addressed and stamped, is deposited in the United States mail or the Statehouse mail, if the party is a state employee or state agency. The officer designated by the agency to serve documents in a proceeding must serve all orders and notices on the representatives of each party designated pursuant to these rules for that proceeding and upon other persons designated by these rules or by the agency. (3-20-20)

015. COMPUTATION OF TIME.
Whenever statute, these or other rules, order, or notice requires an act to be done within a certain number of days of a given day, the given day is not included in the count. If the day the act must be done is Saturday, Sunday or a legal holiday, the act may be done on the first day following that is not Saturday, Sunday or a legal holiday. (3-20-20)

016. FEES AND REMITTANCES.
Fees and remittances to the agency must be paid by: electronic transfer, money order, bank draft or check payable to PERSI. Remittances in currency or coin are wholly at the risk of the remitter, and the agency assumes no responsibility for their loss. (3-20-20)

017. FURTHER PROCEEDINGS.
Any person aggrieved by any otherwise final decision or inaction of the Board, before filing an appeal to district court, must initiate a formal proceeding before the Board. (3-20-20)

018. PARTIES TO CONTESTED CASES LISTED.
Parties to contested cases before the agency are called petitioners, complainants or respondents. On reconsideration or appeal within the agency, parties are called by their original titles listed in the previous sentence. (3-20-20)

019. PETITIONERS.
Persons who seek to modify, amend or stay existing orders or rules of the agency, to clarify their rights or obligations under law administered by the agency, to ask the agency to initiate a contested case, or to otherwise take action that will result in the issuance of an order or rule, are called "petitioners." (3-20-20)

020. INITIAL PLEADING BY PARTY -- LISTING OF REPRESENTATIVES.
The initial pleading of each party at the formal stage of a contested case (petition, complaint, motion, or answer) must name the party's representative(s) for service and state the representative's(s') address(es) for purposes of receipt of all official documents. Service of documents on the named representative(s) is valid service upon the party for all purposes in that proceeding. If no person is explicitly named as the party's representative, the person signing the pleading will be considered the party's representative. (3-20-20)

021. REPRESENTATION OF PARTIES AT HEARING.

01. Appearances and Representation. To the extent authorized or required by law, appearances and representation of parties or other persons at formal hearing or prehearing conference must be as follows: (3-20-20)

a. Natural person. A natural person may represent himself or herself or be represented by a duly authorized employee, attorney, family member or friend. (3-20-20)

b. A partnership may be represented by a partner, duly authorized employee, or attorney. (3-20-20)

c. A corporation may be represented by an officer, duly authorized employee, or attorney. (3-20-20)

d. A municipal corporation, local government agency, unincorporated association or nonprofit organization may be represented by an officer, duly authorized employee, or attorney. (3-20-20)

02. Representatives. The representatives of parties at hearing, and no other persons or parties appearing before the agency, are entitled to examine witnesses and make or argue motions. (3-20-20)

022. PLEADINGS LISTED -- MISCELLANEOUS.
Pleadings in contested cases include, but are not limited to petitions, complaints, motions, answers, consent agreements, briefs, memoranda, statements of position, and orders. Affidavits or declarations under penalty of perjury may be filed in support of any pleading. A party's initial pleading in any proceeding must comply with Section 020, but the presiding officer may allow documents filed during informal stages of the proceeding to be considered a party's initial pleading without the requirement of resubmission to comply with this rule. All pleadings filed during the formal stage of a proceeding must be filed in accordance with these rules. A party may adopt or join any other party's pleading. Two or more separately stated grounds, claims or answers concerning the same subject matter may be included in one pleading. (3-20-20)

023. PETITIONS -- DEFINED -- FORM AND CONTENTS.

01. Pleadings Defined. All pleadings requesting the following are called "petitions": (3-20-20)

a. Modification, amendment or stay of existing orders or rules; (3-20-20)

b. Clarification, declaration or construction of the law administered by the agency or of a party's rights or obligations under law administered by the agency; or (3-20-20)

c. Rehearing or reconsideration. (3-20-20)

02. **Petitions**. Petitions must: (3-20-20)

a. State the facts upon which they are based; (3-20-20)

b. Refer to the particular provisions of statute, rule, order or other controlling law upon which they are based; (3-20-20)

c. State the relief desired; and (3-20-20)

d. State the name of the person petitioned against (the respondent), if any. (3-20-20)

03. **Form and Contents of Petition of Declaratory Rulings**. Any person petitioning for a declaratory ruling on the applicability of a statute, rule or order administered by the agency must substantially comply with this rule. (3-20-20)

a. Form. The petition shall: (3-20-20)

i. Identify the petitioner and state the petitioner's interest in the matter; (3-20-20)

ii. State the declaratory ruling that the petitioner seeks; and (3-20-20)

iii. Indicate the statute, order, rule, or other controlling law, and the factual allegations upon which the petitioner relies to support the petition. (3-20-20)

b. Legal Assertions. Legal assertions in the petition may be accompanied by citations of cases and/or statutory provisions. (3-20-20)

024. MOTIONS -- DEFINED -- FORM AND CONTENTS -- TIME FOR FILING -- PROCEDURE.

01. **Defined**. All other pleadings requesting the agency to take any other action in a contested case, except consent agreements or pleadings specifically answering other pleadings, are called "motions." (3-20-20)

02. **Form and Contents**. Motions must: (3-20-20)

a. Fully state the facts upon which they are based; (3-20-20)

b. Refer to the particular provision of statute, rule, order, notice, or other controlling law upon which they are based; and (3-20-20)

c. State the relief sought. (3-20-20)

03. **Other**. If the moving party desires oral argument or hearing on the motion, it must state so in the motion. Any motion to dismiss, strike or limit a complaint or petition must be filed before the answer is due or be included in the answer, if the movant is obligated to file an answer. If a motion is directed to an answer, it must be filed within fourteen (14) days after service of the answer. (3-20-20)

025. ANSWERS -- DEFINED -- FORM AND CONTENTS -- TIME FOR FILING.
All pleadings responding to the allegations or requests of complaints, petitions, or motions are called "answers." (3-20-20)

01. Answers to Pleadings Other Than Motions. Answers to complaints, petitions or appeals must be filed and served on all parties of record within twenty-eight (28) days after service of the pleading being answered, unless order or notice modifies the time within which answer may be made, or, a motion to dismiss is made within twenty-eight (28) days. When an answer is not timely filed under this rule, the presiding officer may issue a notice of default against the respondent. Answers must admit or deny each material allegation of the complaint or petition. Any material allegation not specifically admitted shall be considered to be denied. Matters alleged by cross-complaint or affirmative defense must be separately stated and numbered. (3-20-20)

02. Answers to Motions. Answers to motions may be filed by persons or parties who are the object of a motion or by parties opposing a motion. The person or party answering the motion must do so with all deliberate and reasonable speed. In no event is a party entitled to more than fourteen (14) days to answer a motion or to move for additional time to answer. The presiding officer may act upon a prehearing motion. (3-20-20)

026. FORM OF PLEADINGS.
All pleadings submitted by a party and intended to be part of an agency record must comply with the following: (3-20-20)

01. Requirements. Pleadings must: (3-20-20)

a. Be submitted on white, eight and one-half inch (8 1/2") by eleven inch (11") paper copied on one (1) side only; (3-20-20)

b. State the case caption, case number and title of the document; (3-20-20)

c. Include on the upper left corner of the first page the name(s), mailing and street address(es), and telephone and FAX number(s) of the person(s) filing the document or the person(s) to whom questions about the document can be directed; and (3-20-20)

d. Have at least one inch (1") left and top margins. (3-20-20)

02. Form. Documents complying with this rule will be in the following form:

Name of Representative
Mailing Address of Representative
Street Address of Representative (if different)
Telephone Number of Representative
FAX Number of Representative (if there is one)
Attorney/Representative for (Name of Party)

BEFORE THE RETIREMENT BOARD
OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

)
In re the Matter of) CASE NO.
)
) (TITLE OF DOCUMENT)

(3-20-20)

027. AMENDMENTS TO PLEADINGS -- WITHDRAWAL OF PLEADINGS.
The presiding officer may allow any pleading to be amended or corrected or any omission to be supplied. Pleadings will be liberally construed, and defects that do not affect substantial rights of the parties may be disregarded. A party

desiring to withdraw a pleading must file a notice of withdrawal of the pleading and serve all parties with a copy. Unless otherwise ordered by the presiding officer, the notice is effective fourteen (14) days after filing. (3-20-20)

028. DISQUALIFICATION OF OFFICERS HEARING CONTESTED CASES.
Pursuant to Section 67-5252, Idaho Code, persons designated as presiding officers are subject to disqualification for bias, prejudice, interest, substantial prior involvement in the case other than as a presiding officer, status as an employee of the agency, lack of professional knowledge in the subject matter of the contested case, or any other reason provided by law or for any cause for which a judge is or may be disqualified. Any party may petition for the disqualification of a hearing officer. However, the petition must be filed not later than fourteen (14) days after receiving notice that the officer will preside at a contested case or upon discovering facts establishing grounds for disqualification, whichever is later. Any party may assert a blanket disqualification for cause of all employees of the agency hearing the contested case, other than the agency head, prior to the designation of presiding officer(s). A presiding officer whose disqualification is requested shall determine in writing whether to grant the petition for disqualification, stating facts and reasons for the hearing officer's determination. Challenge to an agency head must be made pursuant to Sections 59-704 and 67-5252(4), Idaho Code. (3-20-20)

029. SCOPE OF AUTHORITY OF PRESIDING OFFICERS.
The scope of presiding officers' authority may be restricted in the appointment by the agency. Unless the agency otherwise provides, presiding officers have the standard scope of authority, which is: (3-20-20)

01. Schedule Cases. Authority to schedule cases assigned to the presiding officers including authority to issue notices of prehearing conference and of hearing, as appropriate. (3-20-20)

02. Schedule and Compel Discovery. Authority to schedule and compel discovery when discovery is authorized before the agency, and to require advance filing of expert testimony when authorized before the agency. (3-20-20)

03. Conduct Hearings. Authority to preside at and conduct hearings, administer oaths, accept evidence into the record, rule upon objections to evidence, preserve and enforce order, issue subpoenas for and to compel the attendance of witnesses or the production of books, papers, documents and other evidence, and, to examine witnesses. (3-20-20)

04. Issue Decisions for Review. Authority to issue a written decision for review and confirmation by the Board, including a narrative of the proceedings before the presiding officer and findings of fact, conclusions of law, and recommended or preliminary orders. (3-20-20)

030. CHALLENGES TO STATUTES.
A presiding officer in a contested case has no authority to declare a statute unconstitutional. However, when a court of competent jurisdiction whose decisions are binding precedent in the state of Idaho has declared a statute unconstitutional, or when a federal authority finds that the same state statute or rule or a substantively identical state statute or rule that would otherwise apply has been challenged in the proceeding before the presiding officer, then the officer shall apply the precedent of the court or the preemptive action of the federal authority to the proceeding before the officer and decide the proceeding in accordance with the precedent of the court or the preemptive action of the federal authority. (3-20-20)

031. PRIVILEGE.
Communications in an ADR proceeding, including facts disclosed, offers made and all other aspects of the proceeding, are privileged and shall not be included in the record or disclosed by the neutral or by any party to the proceeding unless all parties to the proceeding consent in writing, the communication has already been made public, or is required by court order, statute or agency rule to be made public. (3-20-20)

032. FACTS DISCLOSED NOT PART OF THE RECORD.
Unless parties agree otherwise, facts disclosed, offers made and all other aspects of negotiation (except agreements reached) in prehearing conferences in a contested case are not part of the record. (3-20-20)

033. SUBPOENAS.
The agency may issue subpoenas as authorized by statute, upon a party's motion or upon its own initiative. The

presiding officer upon motion to quash made promptly, and in any event, before the time to comply with the subpoena, may quash the subpoena, or condition denial of the motion to quash upon reasonable terms. (3-20-20)

034. FILING AND SERVICE OF DISCOVERY-RELATED DOCUMENTS.
Notices of deposition, cover letters stating that production requests, written interrogatories or requests for admission have been served, cover letters stating answers to production requests, written interrogatories, or requests for admission have been served or are available for inspection, and objections to discovery must be filed and served as provided in the discovery order. (3-20-20)

035. SANCTIONS FOR FAILURE TO OBEY ORDER COMPELLING DISCOVERY.
The presiding officer may impose all sanctions recognized by statute or rule for failure to comply with the discovery order. (3-20-20)

036. PROTECTIVE ORDERS.
As authorized by statute or rule, the presiding officer may issue protective orders limiting access to information generated during settlement negotiations, discovery, or hearing. (3-20-20)

037. NOTICE OF HEARING.
Notice of the place, date and hour of hearing will be served on all parties at least fourteen (14) days before the time set for hearing, unless the presiding officer finds by order that it is necessary or appropriate that the hearing be held earlier. Notices must comply with the requirements of Section 038. Notices must list the names of the parties (or the lead parties if the parties are too numerous to name), the case number or docket number, the names of the presiding officer(s) who will hear the case, the name, address and telephone number of the person to whom inquiries about scheduling, hearing facilities, etc., should be directed, and the names of persons with whom the documents, pleadings, etc., in the case should be filed if the presiding officer is not the person who should receive those documents. If no document previously issued by the agency has listed the legal authority of the agency to conduct the hearing, the notice of hearing must do so. The notice of hearing shall state that the hearing will be conducted under these rules of procedure and inform the parties where they may read or obtain a copy. (3-20-20)

038. FACILITIES AT OR FOR HEARING AND ADA REQUIREMENTS.
All hearings must be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act, and all notices of hearing must inform the parties that the hearing will be conducted in facilities meeting the accessibility requirements of the American with Disabilities Act. All notices of hearing must inform the parties and other persons notified that if they require assistance of the kind that the agency is required to provide under the Americans with Disabilities Act (e.g., sign language interpreters, Braille copies of documents) in order to participate in or understand the hearing, the agency will supply that assistance provided the person requiring such assistance has made such a request not later than five (5) working days before the hearing or such other time as specified in the notice. (3-20-20)

039. HOW HEARINGS HELD.
Hearings may be held in person or by telephone or television or other electronic means, so long as the parties or other authorized participants in the hearing have an opportunity to participate in the entire proceeding while it is taking place. (3-20-20)

040. CONSOLIDATION OF PROCEEDINGS.
The agency may consolidate two (2) or more proceedings for hearing upon finding that they present issues that are related and that the rights of the parties will not be prejudiced. In consolidated hearings the presiding officer determines the order of the proceeding. (3-20-20)

041. STIPULATIONS.
Parties may stipulate among themselves to any fact at issue in a contested case by written statement filed with the presiding officer or presented at hearing or by oral statement at hearing. A stipulation binds all parties agreeing to it only according to its terms. The presiding officer may regard a stipulation as evidence or may require proof by evidence of the facts stipulated. The presiding officer is not bound to adopt a stipulation of the parties, but may do so. If the presiding officer rejects a stipulation, the officer will do so before issuing a final order and will provide an additional opportunity for the parties to present evidence and arguments on the subject matter of the rejected stipulation. (3-20-20)

042. EXHIBITS.
Exhibit numbers may be assigned to the parties before the hearing. Exhibits prepared for hearing must ordinarily be typed or printed on eight and one-half inch (8 1/2") by eleven inch (11") white paper, except maps, charts, photographs and non-documentary exhibits may be introduced on the size or kind of paper or in such other form as is customarily used. A copy of each documentary exhibit must be furnished to each party present and to the presiding officer, except for unusually bulky or voluminous exhibits that have previously been made available for the parties' inspection. Copies must be of good quality. Exhibits offered at hearings are subject to appropriate and timely objections before the close of proceedings. Exhibits to which no objection is made are automatically admitted into evidence without motion of the sponsoring party. Neither motion pictures, slides, opaque projections, videotapes, audiotapes nor other materials not capable of duplication by still photograph or reproduction on paper shall be presented as exhibits without prior approval of the presiding officer. (3-20-20)

043. RECORD FOR DECISION.

01. Official Record. The agency will maintain an official record for each contested case and (unless statute provides otherwise) base its decision in a contested case on the official record for the case. (3-20-20)

02. Contents. The record for a contested case will include: (3-20-20)

a. All notices of proceedings; (3-20-20)

b. All petitions, complaints, motions, and answers filed in the proceeding; (3-20-20)

c. All intermediate or interlocutory rulings; (3-20-20)

d. All evidence received or considered (including all transcripts or recordings of hearings and all exhibits offered or identified at hearing); (3-20-20)

e. All offers of proof, however made; (3-20-20)

f. All briefs, memoranda, proposed orders of the parties or of the presiding officers, statements of position, statements of support, and exceptions filed by parties or persons not parties; (3-20-20)

g. All evidentiary rulings on testimony, exhibits, or offers of proof; (3-20-20)

h. All staff memoranda or data submitted in connection with the consideration of the proceeding; (3-20-20)

i. A statement of matters officially noticed; and (3-20-20)

j. All recommended orders, preliminary orders, final orders, and orders on reconsideration. (3-20-20)

044. NOTICE OF PROPOSED DEFAULT AFTER FAILURE TO APPEAR.
If a party fails to appear at the time and place set for hearing, the presiding officer may serve upon all parties a notice of a proposed default order denying or dismissing the matter set for hearing. The notice of a proposed default order shall include a statement that the default order is proposed to be issued because of a failure of the party to appear at the time and place set for hearing. The notice of proposed default order may be mailed to the last known mailing address of the party proposed to be defaulted. (3-20-20)

045. REVIEW OF INTERLOCUTORY ORDERS.
Any party or person affected by an interlocutory order may petition the officer issuing the order to review the interlocutory order. The officer issuing an interlocutory order may rescind, alter or amend any interlocutory order on the officer's own motion, but will not on the officer's own motion review any interlocutory order affecting any party's substantive rights without giving all parties notice and an opportunity for written comment. (3-20-20)

046. FINAL ORDERS.

01. Final Order - Definition. Final orders are orders that have been confirmed or issued by the Board pursuant to Section 59-1314(4), Idaho Code. (3-20-20)

02. Content. Every final order must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (3-20-20)

a. This is a final order of the agency. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The agency will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5246(4), Idaho Code. (3-20-20)

b. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (3-20-20)

i. A hearing was held; (3-20-20)

ii. The final agency action was taken; (3-20-20)

iii. The party seeking review of the order resides; or (3-20-20)

iv. The real property or personal property that was the subject of the agency action is attached. (3-20-20)

c. An appeal must be filed within twenty-eight (28) days (a) of the service date of this final order, (b) of an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. (3-20-20)

047. PERSONS WHO MAY APPEAL.
Pursuant to Section 59-1314 and 67-5270, Idaho Code, any party aggrieved by a final order of an agency in a contested case may appeal to district court. Pursuant to Section 67-5271, Idaho Code, a person is not entitled to judicial review of an agency action in district court until that person has exhausted all administrative remedies available with the agency, but a preliminary, procedural, or intermediate agency action or ruling is immediately reviewable in district court if review of the final agency action would not provide an adequate remedy. (3-20-20)

048. -- 099. (RESERVED)

SUBCHAPTER B – PERSI RULES FOR ELIGIBILITY
Rules 100 through 249

100. MANDATORY MEMBERSHIP.
Membership in PERSI is mandatory for all persons who meet the statutory definition of an "employee" in Section 59-1302(14), Idaho Code. (3-20-20)

101. MULTIPLE EMPLOYERS -- MEMBERSHIP ELIGIBILITY.
An employee establishes separate PERSI membership eligibility with each state agency, political subdivision or government entity with which the employee meets the statutory definition of an "employee" as found in Section 59-1302(14), Idaho Code. (3-20-20)

01. Does Not Meet the Statutory Definition. Because membership eligibility is established independently with each state agency, political subdivision or government entity, neither employer nor employee contributions are required on salary paid by employers to employees who do not meet the statutory definition of an "employee" as found in Section 59-1302(14), Idaho Code. (3-20-20)

02. State Agencies. The agencies of the state of Idaho shall be considered a single employer; an employee working for more than one (1) state agency establishes eligibility based on the total hours of employment

worked with all state agencies. (3-20-20)

102. ELECTED AND APPOINTED OFFICIALS NOT SUBJECT TO TWENTY HOUR REQUIREMENT.
Elected and appointed officials are not subject to the hourly requirement of Section 59-1302(14)(A)(a), Idaho Code. (3-20-20)

103. ELECTED AND APPOINTED OFFICIALS -- MEMBERS OF PERSI.
Elected and appointed officials serving on boards, councils, or commissions who receive salary or honorarium for services performed are members of PERSI even though they receive nominal salary and do not normally work twenty (20) hours or more per week. (3-20-20)

104. -- 110. (RESERVED)

111. TEACHER WORKING HALF-TIME OR MORE.
For the purposes of Section 59-1302(14)(A)(a), Idaho Code, a teacher is considered to be working half-time or more if the teacher's contract specifies that the engagement is half or more of a full contract. Teachers and all other school employees not employed under such a contractual arrangement shall be required to meet the requirement of normally working twenty (20) hours or more per week. (3-20-20)

112. RESPONSIBILITY OF EMPLOYER TO DETERMINE EMPLOYEE ELIGIBILITY.
It is the responsibility of each state agency, political subdivision or government entity to make the initial determination of which employees within its jurisdiction meet the requirements of eligibility for membership and to withhold the required member contributions from salary paid. (3-20-20)

113. NORMALLY WORKS TWENTY HOURS.
If a person works twenty (20) hours or more per week for more than one-half (1/2) of the weeks during the period of employment being considered, then the person meets the requirements of Section 59-1302(14)(A)(a), Idaho Code ("normally works twenty (20) hours or more per week"), and shall be considered an employee if the person meets the other requirements of Section 59-1302(14), Idaho Code. Statutory References: Section 59-1302(14)(A)(a). (3-20-20)

114. APPLICATION OF THE FIVE MONTH REQUIREMENT.
An employee working twenty (20) hours or more per week who is hired with the expectation of working less than five (5) consecutive months, becomes retroactively eligible for membership whenever it becomes evident the period of employment will be five (5) consecutive months or longer and the employee meets the other requirements of Section 59-1302(14), Idaho Code. (3-20-20)

01. Employee and Employer Contributions. Employee and Employer contributions must be immediately withheld by the state agency, political subdivision or government entity and forwarded when it becomes evident the period of employment will be five (5) consecutive months or more, and the employee meets the other requirements of Section 59-1302(14), Idaho Code. Delinquent employee and employer contributions on all prior months of employment, shall be paid by the state agency, political subdivision or government entity pursuant to Subsection 114.02 of this chapter. (3-20-20)

02. Delinquent Contributions. Employer shall collect and pay delinquent contributions of employer and employee within three (3) months once it becomes evident the period of employment will be five (5) consecutive months or more. If the delinquent contributions are not paid within three (3) months, regular interest will be assessed against the outstanding balance until the delinquent employee contributions are paid in full. (3-20-20)

115. -- 120. (RESERVED)

121. CEASING TO BE AN EMPLOYEE.
A member ceases to be an employee on the day following the effective date that the member is separated from their employer. Membership service credits stop on the day the member ceases to be an employee. (3-20-20)

122. LEAVE OF ABSENCE.
A member is ineligible to contribute and receive membership service credit while on leave of absence without pay or

while on leave of absence with less than one-half (1/2) pay, unless the absence is occasioned by a worker's compensation claim approved by a surety. An active member separated from employment under conditions where both the member and the employer plan a later return to employment should be placed on leave of absence without pay during the planned period of absence. (3-20-20)

01. Employer and Employee Contributions -- Leave of Absence. During the leave of absence without pay, employer and employee contributions cease. If the member is on a leave of absence as a result of an approved worker's compensation claim, employer and employee contributions are due and payable on any salary paid to the member. The member is entitled to a month of membership service credit for each month the member remains on leave of absence as a result of an approved worker's compensation claim and receives salary in addition to income benefits. (3-20-20)

02. Documentation of Leave of Absence. The employer shall provide PERSI with documentation, on a form provided by PERSI, of a leave of absence to clarify the member's status and retirement benefit entitlement. (3-20-20)

03. Status of Employee on Leave of Absence. An employee placed on a leave of absence by an employer remains in an employee status and is ineligible for payment of any separation benefits or for payment of a service, early, disability, or vested retirement allowance. If a member on leave of absence without pay terminates employment without returning to work, the leave without pay status is negated. (3-20-20)

04. Leave of Absence -- Effect on Benefit Enhancement. An employee shall not be placed on a leave of absence without pay prior to the effective date of a benefit enhancement and then return to work after the effective date of the benefit enhancement for the purpose of qualifying for the benefit enhancement. An employee placed on unpaid leave of absence prior to the date of the benefit enhancement who returns to work after the effective date of the benefit enhancement and subsequently applies for retirement shall include with the application for retirement, certification from the state agency, political subdivision or government entity that the leave of absence was not granted for the purpose of allowing the person to qualify for the benefit enhancement. (3-20-20)

123. -- 149. (RESERVED)

150. POLICE OFFICER MEMBERSHIP CERTIFICATION.
The executive director or the executive director's designee may accept or reject the employer's certification that an employee's primary position with the employer is a police officer for retirement purposes as required in Section 59-1303, Idaho Code. Acceptance of the certification shall not limit PERSI's right to review and reclassify the position for retirement purposes based upon an audit or other relevant information presented to PERSI. A position title or occasional assignments to active law enforcement service or hazardous law enforcement duties does not create a condition for designation as a police officer member for retirement purposes. (3-20-20)

151. DEFINITION OF ACTIVE LAW ENFORCEMENT SERVICE.
"Active law enforcement service" as used in Section 59-1303, Idaho Code, means the primary duties of an employee's position requires the employee to investigate and arrest persons for criminal or suspected criminal violations or designate the employee to be responsible for the safekeeping and custody of persons held in a duly constituted confinement facility, actively participate in crime prevention or reduction, compel others to comply with the law, and must be able to prescribe and carry out the consequences of non-compliance. (3-20-20)

152. HAZARDOUS LAW ENFORCEMENT DUTIES.
In applying Section 59-1303(4)(a)(i), Idaho Code, factors such as job conditions, physical exertion in apprehending suspects and other required knowledge, skill and physical ability will be considered. To qualify under Section 59-1303(4)(a)(ii), Idaho Code, job duties which are associated with life threatening situations must be an integral part of the job requirements. These duties are comparable to the job of patrol officer or detective. Pursuant to Section 59-1303(4)(a)(iii), Idaho Code, the major purpose of the position must be to compel others to comply with the law. The employee must be able to prescribe and carry out the consequences of non-compliance. All of Section 59-1303(4)(a), Idaho Code, must be met to be considered as hazardous law enforcement. PERSI staff is authorized to obtain all information pertinent to the position including questionnaires, job descriptions, interviews and any other pertinent records in order to make a report to the Board. (3-20-20)

153. -- 199. (RESERVED)

200. DETERMINATION OF FIREFIGHTER.
A "firefighter" means an employee whose primary occupation with an employer as defined by Section 59-1302(16), Idaho Code, is that of preventing and extinguishing fires. A firefighter member for retirement purposes is an employee appointed to the position of fire chief by a city council but not eligible to be a "paid firefighter," or the chief fire warden of a timber protective association, or is an employee of either the department of lands or of a timber protective association whose primary position and principal accountability in that position either requires direct supervision of employees engaged in the prevention, presuppression and suppression of wild land fires or requires the performance of those duties as the principal function of the position. A firefighter member for retirement purposes does not include an employee who may be required on occasion to engage in those functions as a secondary requirement of the position.
Statutory References: Sections 59-1302(16), 59-1391(f) and 72-1403, Idaho Code. (3-20-20)

201. INCORRECT CLASSIFICATION OF FIREFIGHTER.
An employer or agency which believes that any position is incorrectly classified as a firefighter position or a non-firefighter position may petition the Board for inclusion or exclusion of such position as a firefighter position. Such petition shall be in writing and explain in detail the principal duties of the position. The Board will review the petition and evidence, together with such information and evidence as may be presented by the staff of PERSI. The Board may decide the matter based upon the information supplied, may request additional information, or may request an oral presentation before the Board.
Statutory References: Sections 59-1302(16), 59-1391(f) and 72-1403, Idaho Code. (3-20-20)

202. PAID FIREFIGHTER EXCLUSION FROM RULES 200 AND 201.
The provisions of Sections 200 and 201 of this subchapter do not apply to a "paid firefighter" as defined by Sections 59-1391(f) or 72-1403(A), Idaho Code, or to any references to "firefighter" found in Title 72, Chapter 14, Idaho Code.
Statutory References: Sections 59-1302(16), 59-1391(f) and 72-1403, Idaho Code. (3-20-20)

203. -- 249. (RESERVED)

SUBCHAPTER C – PERSI GENERAL PROVISIONS, CONTRIBUTION RATE, MISCELLANEOUS, AND INTEREST RATE RULES
Rules 250 through 374

250. PERSI EMPLOYER GENERAL MEMBER CONTRIBUTION RATE.
The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, beginning July 1, 2019, shall be eleven point ninety-four percent (11.94%) until next determined by the Board.
Statutory Reference: Sections 59-1302(16), 59-1391, 59-1394, and 59-1397, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) (3-20-20)

251. FIREFIGHTER RETIREMENT FUND EMPLOYER RATE.
The Firefighter Retirement Fund employer rate shall be: (3-20-20)

01. Option I and II Firefighters. For option I and II firefighters hired before October 1, 1980, as follows:

Option I and II Firefighters	
PERSI Employer Contribution Rate:	The employer contribution rate as provided in Section 252.
Additional Employer Rate:	One percent (1%)
Social Security Rate:	Seven point sixty-five percent (7.65%)

Option I and II Firefighters	
Excess Merger Costs Rate:	Seventeen point twenty-four percent (17.24%) through December 31, 2014. Beginning January 1, 2015, five percent (5%) until next determined by the Board.
TOTAL Contribution Rate:	The total contribution rate is the sum of the PERSI employer contribution rate, the additional employer rate, the social security rate and the excess merger costs rate.

(3-20-20)

02. Class D Firefighters. For class D firefighters (firefighters employed on or after October 1, 1980, by a city or fire district that employs paid firefighters who are participating in the Firefighters' Retirement Fund), as follows:

Class D Firefighters	
PERSI Employer Contribution Rate:	The employer contribution rate as provided in Section 252.
Excess Merger Costs Rate:	Seventeen point twenty-four percent (17.24%) through December 31, 2014. Beginning January 1, 2015, five percent (5%) until next determined by the Board.
TOTAL Contribution Rate:	The total contribution rate is the sum of the PERSI employer contribution rate and the excess merger costs rate.

Statutory References: Sections 59-1302(16), 59-1391, 59-1394, 59-1397, 72-1403, and 72-1434, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) (3-20-20)

03. Class E Members. For class E members (general members who meet the definition of paid firefighter under Section 59-1391(f), Idaho Code, but are not firefighters as defined in Section 59-1302(16), Idaho Code) the employer general member contribution rate as provided in Section 250, plus the excess merger costs specified in Subsection 027.01. (3-20-20)

252. PERSI EMPLOYER CLASS II CONTRIBUTION RATE.
The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, beginning July 1, 2019 for an employee classified as a police officer member excluding those listed in Section 253 of this subchapter when applicable, and firefighters excluding those listed in Section 251 of this subchapter, shall be twelve point twenty-eight percent (12.28%) until next determined by the Board.
Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) (3-20-20)

253. CITY OF IDAHO FALLS CLASS II CONTRIBUTION RATE.
The City of Idaho Falls employer rate for an employee classified as a police member shall be equal to the rate provided in Section 252, unless further modified by the Board.
Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended Retroactively to 7-1-97) (3-20-20)

254. -- 299. (RESERVED)

300. PERSI EMPLOYEE GENERAL MEMBER CONTRIBUTION RATE.
The PERSI employee contribution rate as provided in Section 59-1333, Idaho Code, beginning July 1, 2019 for all members not classified as police members or firefighters, shall be seven point sixteen percent (7.16%) of salary until next determined by the Board.
Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) (3-20-20)

301. PERSI EMPLOYEE CLASS II CONTRIBUTION RATE.
The employee contribution rate as provided in Section 59-1334, Idaho Code, beginning July 1, 2019 for an employee classified as a police officer member shall be eight point seventy-seven percent (8.77%) of salary until next determined by the Board.
Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) (3-20-20)

302. PUBLIC SAFETY OFFICER DISABILITY CONTRIBUTIONS UNDER SECTION 59-1352A, IDAHO CODE.
In accordance with Section 59-1352A, Idaho Code, public safety officers, as that term is used in Section 59-1352A, Idaho Code, shall pay an additional contribution rate of point four percent (.04%) of salary until next determined by the board. (3-1-10)

303. EMPLOYEE CONTRIBUTIONS BASED ON GROSS SALARY.
Employee contributions shall be based on the employee's total gross salary regardless of source or employer funds from which the employee is paid. (3-20-20)

304. (RESERVED)

305. MULTIPLE EMPLOYERS -- CONTRIBUTION RATE.
If the employee has met eligibility requirements with more than one (1) employer that would result in different contribution rates, contributions shall be made at the rate for the member's classification with the primary employer. (3-20-20)

306. STATE EMPLOYEE CONTRIBUTIONS.
If an employee establishes membership with the state, the employee and each agency must make contributions on the employee's salary regardless of the number of hours worked at each state agency. (3-20-20)

307. POLICE OFFICER CONTRIBUTIONS WITHHELD INCORRECTLY.
If an employee's contributions are withheld by an employer and received by PERSI at the rate established for police members on the presumption the certification required by Section 59-1303, Idaho Code, will be accepted, but if it is rejected, the employer shall adjust the employee's contribution rate to a general member rate and PERSI shall return to the employer any excess employee contributions that have occurred. (3-20-20)

308. CONTRIBUTIONS DUE WHILE MEMBER IS RECEIVING WORKER'S COMPENSATION.

01. Contributions Due and Payable. Contributions are due and payable on whatever percentage of salary is paid while the member is on a leave of absence occasioned by an approved worker's compensation claim and the member will be entitled to a month of membership service credit for each month the member remains eligible. (3-20-20)

02. Accruing Service. This means for an employee to continue accruing service the employer must continue to pay salary equal to the lesser of: (3-20-20)

a. The amount necessary to meet the statutory definition of employee (half-time at the pre-injury rate or more), or (3-20-20)

b. The employee's full-time salary less the employee's worker's compensation income benefit. (3-20-20)

03. Maintaining Eligibility for Injured Workers. The intent of this rule is to permit employers to maintain eligibility for injured workers without having to pay salary that, when added to the employee's worker's compensation income benefit, would exceed the employee's total salary prior to the injury. Section 122 is inapplicable to the extent it conflicts with this rule. (3-20-20)

309. VACATION AND CONTRACTUAL PAYMENTS SUBJECT TO CONTRIBUTIONS.

Compensation paid for vacation or remaining contractual payments is salary subject to employee and employer contributions and earns membership credit through the effective date of separation from employment at the usual rate of compensation. (3-20-20)

310. -- 324. (RESERVED)

325. TRANSFER OF CONTRIBUTIONS TO PERSI.
Employee and employer contributions shall be calculated and forwarded to PERSI by each employer for each employee that meets the statutory definition of "employee" as defined in Section 59-1302 (14), Idaho Code. All Contributions shall be remitted, together with an approved report to PERSI no later than five (5) days after each pay date as provided in Section 59-1325(1), Idaho Code. (3-20-20)

326. -- 349. (RESERVED)

350. REGULAR INTEREST.
Regular interest for each calendar year shall be the greater of ninety percent (90%) of the rate of return on the PERSI fund net of all expenses for the fiscal year ending immediately prior to the calendar year as reported in the actuary's annual valuation report or one percent (1%). (3-20-20)

351. INTEREST – MEMBER CONTRIBUTIONS.
Regular interest as defined in Section 59-1302(26), Idaho Code, and Section 300 in this subchapter, shall accrue to and be credited monthly to a member's accumulated contributions. (3-20-20)

352. REINSTATEMENT INTEREST.
Reinstatement interest for each calendar year shall equal the average of the prime rate on June 30 of the latest three (3) years, plus one percent (1%). For purposes of this rule, the prime rate is the "prime rate" listed in the "Money Rates" section of the Wall Street Journal on June 30, or in the event no rate is listed on June 30, on the latest date preceding June 30 for which a prime rate is listed. Unless otherwise provided by statute or rule, reinstatement interest shall apply to all amounts owed to the fund. (3-20-20)

353. -- 374. (RESERVED)

SUBCHAPTER D – PERSI DISABILITY RULES
Rules 375 through 499

375. GENERAL RULE.
Only members of PERSI with five (5) years of credited service are eligible for disability retirement except as provided in Section 59-1352(2), Idaho Code. (3-20-20)

376. SERVICE RELATED DISABILITY FOR POLICE, GENERAL MEMBERS, AND FIREFIGHTERS.
Police, general members, and certain firefighter members are eligible for disability retirement beginning from the first day of employment when the disability is caused by occupational hazards, as provided in Section 59-1352(2), Idaho Code. (3-20-20)

377. -- 399. (RESERVED)

400. APPLYING FOR DISABILITY RETIREMENT.
Eligible members may apply for disability retirement by completing a required form available from any PERSI office. The application process may include an interview by a PERSI representative. Applicants must release all medical records and information to PERSI. The hours worked to qualify as an employee as defined in Section 59-1302(14), Idaho Code, is inapplicable for purposes of determining disability. (3-20-20)

401. INITIAL APPLICATION REVIEW.
Applications will first be reviewed to determine whether the applicant meets eligibility requirements. If all eligibility requirements are met, the application will proceed to disability assessment review. If all eligibility requirements are not met, the applicant will be notified in writing. (3-20-20)

402. DISABILITY ASSESSMENT REVIEW.
Applicants will be assessed to determine whether they qualify for disability retirement under the applicable standard. The assessment may include without limitation, records review, medical and psychological examinations, vocational assessments, or any combination thereof as determined by PERSI. Failure to timely comply with any request made by PERSI during the assessment process shall result in automatic denial of disability retirement. At the conclusion of the assessment process, PERSI will notify applicants in writing whether or not they qualify for disability retirement. (3-20-20)

403. RECONSIDERATION OF DISABILITY ASSESSMENT DECISION.
Applicants who are denied disability retirement as a result of an adverse disability assessment decision, and wish to contest that decision, are required to participate in a reconsideration process. A request for reconsideration must be made within thirty (30) days of the issuance of the disability assessment decision. Any additional information the applicant wishes to be considered must be submitted to PERSI within thirty (30) days of the request for reconsideration. The additional information will be reviewed and a reconsideration decision will be issued in writing to the applicant. (3-20-20)

404. ADMINISTRATIVE REVIEW OF THE RECONSIDERATION DECISION.
A reconsideration decision shall be considered a final decision under Section 59-1314(2), Idaho Code, and may be appealed to the Board for review. In any related administrative hearing, the applicant shall be limited to presenting facts and evidence made available to PERSI in the reconsideration process. No new or additional evidence may be presented at the hearing. If the applicant has additional facts or evidence that were not made available to PERSI during the assessment or reconsideration process, the applicant must submit a new application for disability retirement, proceed again through the assessment process, and pay the costs associated with the second or subsequent assessment process. This rule is intended to promote the efficient use of fund resources by encouraging full and complete disclosure of information during the disability assessment process. (3-20-20)

405. DELEGATION.
PERSI may, by contract or otherwise, delegate all or part of these processes to third parties. Where such delegation has been made, the term "PERSI" includes those third parties. When a member requests the resumption of a disability retirement allowance pursuant to Section 59-1354A, Idaho Code, the board may delegate its authority under Section 59-1354A, Idaho Code, to a third party. Where such delegation has been made, the term "Board" includes those third parties. (3-20-20)

406. REASSESSMENT OF DISABILITY RETIREES.
Disability retirees are subject to reassessment of their disability at any time to determine whether they continue to be disabled under the standard in Section 59-1302(12), Idaho Code. However, pursuant to Section 59-1302(12)(b), Idaho Code, after two (2) years of continuous disability retirement, a disability retiree is not required to undergo medical examinations more often than every twelve (12) months. Disability retirees who are notified that they have been selected for reassessment are under the same obligation as applicants to supply information. (3-20-20)

407. ATTORNEY'S FEES AND COSTS.
Attorney's fees and costs incurred by an applicant in his efforts to obtain disability retirement are the sole responsibility of the applicant and shall not be paid by PERSI except for fees related to judicial review for which applicant is found to be entitled under applicable law. (3-20-20)

408. -- 424. (RESERVED)

425. BURDEN ON APPLICANT.
Applicant must demonstrate that, on or before applicant's last day of employment, he was disabled under the disability standard. The last day of employment is the last day applicant earned compensation, including annual leave and sick leave. When a member requests the resumption of a disability retirement allowance pursuant to Section 59-1354A, Idaho Code, the member must demonstrate that he could not successfully return to work because of the same disability on which his disability retirement was based. (3-20-20)

426. STATUTORY STANDARD.
In applying the disability standard in Section 59-1302(12), Idaho Code, substantially all avenues of employment are

reasonably closed if the applicant is permanently prevented, due to bodily injury or disease, from performing every substantial and material duty of any occupation for which the applicant is reasonably qualified by education, training or experience. (3-20-20)

427. (RESERVED)

428. HIRE-ABILITY OF APPLICANT.
The inability of the applicant to secure employment in and around the area where the applicant resides is not considered in determining whether or not the applicant is disabled. If the applicant is able to perform every substantial and material duty of any jobs existing in the economy for which the applicant is reasonably qualified by education, training or experience, the applicant will not be considered disabled regardless of other factors that might affect the applicant's ability to actually secure employment, such as employer decisions and practices or the fact that there are no open positions or that the applicant is not selected for those positions. (3-20-20)

429. -- 449. (RESERVED)

450. COMMENCEMENT AND DURATION OF DISABILITY ALLOWANCE.
The commencement and duration of payment of disability benefits is governed by Section 59-1354, Idaho Code. For purposes of Section 59-1354(1)(b), Idaho Code, a member "becomes eligible" on the first of the month following the date selected by the member which follows the date on which the member is unable to and thereafter does not return to work on a regular basis for two (2) consecutive weeks but not later than the date on which the member ceases to make contributions. (3-20-20)

451. DETERMINING WORKER'S COMPENSATION OFFSET.
To determine the offset required by Section 59-1353, Idaho Code, the amount payable under the provisions of any worker's compensation law which represents income benefits as defined in Section 72-102, Idaho Code, shall be converted to a monthly equivalent and deducted from the monthly retirement allowance. (3-20-20)

452. EFFECT OF UNUSED SICK LEAVE ON DISABILITY ALLOWANCE.
Unused sick leave entitlement provided for by either Section 33-1228, 33-2109A, or 67-5339, Idaho Code, shall not be considered salary or compensation in the application of Section 59-1354(1), Idaho Code. (3-20-20)

453. -- 474. (RESERVED)

475. APPLICATION OF THIS SUBCHAPTER TO FRF DISABILITY RETIREMENT.
All the provisions of this subchapter, except Sections 375, 376, 406, 426, 427, 451 and 452, apply also to applications for disability retirement under the FRF plan to the extent they do not conflict with the provisions of Title 72, Chapter 14, Idaho Code. (3-20-20)

476. -- 499. (RESERVED)

SUBCHAPTER E – PERSI SEPARATION FROM SERVICE RULES
Rules 500 through 524

500. REPAYMENT OF SEPARATION BENEFITS -- EMPLOYEE STATUS.
Repayment of a separation benefit must commence while the member is an employee, as defined in Section 59-1302(14), Idaho Code. For purposes of this rule the term employee includes employees accruing benefits under the Department of Employment Retirement Plan, the Firefighters' Retirement Fund, and the Policeman's Retirement Fund.
Statutory Reference: Section 59-1360, Idaho Code. (3-20-20)

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

provided in Section 502 of this subchapter.
Statutory Reference: Section 59-1360, Idaho Code. (3-20-20)

502. REPAYMENT OF SEPARATION BENEFITS BY EMPLOYEES PREVIOUSLY PRECLUDED FROM REPAYMENT.
Any employee who was precluded from repaying a separation benefit due to the fact they failed to meet the requirements of Section 59-1360, Idaho Code, may reinstate their previous credited service by repaying the full amount of their accumulated contributions provided such repayment includes payment of regular interest accruing from the date of each such separation benefit payment.
Statutory Reference: Section 59-1360, Idaho Code. (3-20-20)

503. METHODS OF REPAYMENT OF SEPARATION BENEFITS.

01. Periodic and Lump-Sum Payments. Where an active member elects to repay a separation benefit to reinstate previous service as provided in Section 59-1360, Idaho Code, the member may request that repayment be made in periodic payments or in a lump-sum payment. No service will be reinstated until the full repayment has been made. (3-20-20)

02. Repayments Initiated on or After March 1, 2000. For all repayments initiated on or after March 1, 2000, except as provided in Section 501 of this subchapter, a repayment amount will be determined which shall be the sum of the separation benefit(s) plus regular interest from the date of the benefit payment(s) until the date of the first payment. The repayment amount will be amortized over the repayment period at the reinstatement rate in effect on the date of the first periodic payment. (3-20-20)

03. Repayments Initiated Before March 1, 2000. For all periodic repayments initiated before March 1, 2000, a repayment amount will be determined which shall be the sum of the separation benefit(s) plus regular interest from the date of the benefit payment(s) until the date of the first payment. The repayment amount will be amortized over the repayment period at four point seventy-five percent (4.75%) interest. This is a grandfathered rate based on the rate in effect December 31, 1999, and will apply so long as payments exceed interest charges on a calendar year basis. If payments fail to exceed interest charges in any calendar year, the grandfathered rate will be forfeited and replaced by the reinstatement rate beginning in January immediately after the year in which the failure occurs. For purposes of these rules, a repayment is initiated by signing an agreement and making a payment. (3-20-20)

04. Repayments Under Section 59-1331(2), Idaho Code. For (waiting period) payments made pursuant to Section 59-1331(2), Idaho Code, a repayment amount shall be determined which shall be the sum of contributions that would have been made plus regular interest from December 31, 1975 until the date of the first payment. The repayment amount will be amortized over the payment period at the reinstatement rate in effect on the date of the first periodic payment. (3-20-20)

504. IN-SERVICE TRANSFERS TO REINSTATE SERVICE.
To the extent permitted by federal law, and in accordance with any regulation or other guidance issued by the Internal Revenue Service, an active member may transfer funds from a 401(k), a 403(b), or an eligible 457(b) plan, in which they are currently eligible to participate, to the Base Plan for purposes of buying back service previously forfeited due to receiving a separation benefit, purchasing service related to eligible waiting periods, or purchasing service for periods of delinquent contributions. (3-20-20)

505. (RESERVED)

506. ROLLOVERS ACCEPTED INTO THE BASE PLAN.
The PERSI Base Plan will accept participant rollover contributions and direct rollovers of distributions made after December 31, 2001, for purposes of reinstating or purchasing service as permitted under the plan, from the following plans. No after-tax contributions may be rolled over into the Base Plan. (3-20-20)

01. Qualified Plans. A qualified plan described in section 401(a) or 403(a) of the Internal Revenue Code (Code). (3-20-20)

02. **Annuity Contracts**. An annuity contract described in section 403(b) of the IRS Code. (3-20-20)

03. **457 Plans**. An eligible plan under section 457(b) of the IRS Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.(3-20-20)

04. **IRAs**. Any portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the IRS Code that is eligible to be rolled over and would otherwise be includable in gross income. (3-20-20)

507. DIRECT ROLLOVERS OUT OF THE BASE PLAN.
A direct rollover is a payment by the plan to an eligible retirement plan specified by the distributee. (3-20-20)

01. **Rollover Election**. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this part, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution that is equal to at least five hundred dollars ($500) paid directly to an eligible retirement plan specified by the distributee in a direct rollover. (3-20-20)

02. **Eligible Rollover Distribution**. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: (3-20-20)

a. Any distribution that is one (1) of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; (3-20-20)

b. Any distribution to the extent such distribution is required under section 401(a)(9) of the IRS Code); (3-20-20)

c. Any amount that is distributed on account of hardship; (3-20-20)

d. The portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and (3-20-20)

e. Any other distribution(s) that is reasonably expected to total less than two hundred dollars ($200) during a year. (3-20-20)

03. **After-Tax Contributions**. For purposes of the direct rollover provisions in Subsection 507.02, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includable in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the IRS Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the IRS Code that agrees to separately account for the amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable. (3-20-20)

04. **Eligible Retirement Plan**. An eligible retirement plan is an individual retirement account described in section 408(a) of the IRS Code, an individual retirement annuity described in section 408(b) of the IRS Code, a Roth IRA described in Section 408A of the IRS Code, an annuity plan described in section 403(a) of the IRS Code, an annuity contract described in section 403(b) of the IRS Code, an eligible plan under section 457(b) of the IRS Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan, or a qualified plan described in section 401(a) of the IRS Code, that accepts the distributee's eligible rollover distribution. (3-20-20)

05. **Alternate Payees**. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse, who is the alternate payee under a domestic retirement order, approved as provided in Sections 59-1319 and 1320,

Idaho Code, are distributees with regard to the interest of the spouse or former spouse. (3-20-20)

508. REQUIRED MINIMUM DISTRIBUTIONS.

01. Default Application of Federal Requirements. With respect to distributions under the Base Plan, and except as provided in Subsection 508.06, the Plan will apply the minimum distribution requirements of section 401(a)(9) of the IRS Code in accordance with a good faith interpretation of section 401(a)(9), notwithstanding any provision of the Base Plan to the contrary. (3-20-20)

02. Required Beginning Date. Except as otherwise provided in Subsections 508.04 through 508.08, distributions under the Base Plan shall begin not later than April 1 following the later of (a) the commencement year or (b) the year in which the member retires. For purposes of Section 508, the "commencement year" is the calendar year in which the member reaches age seventy and one-half (70 1/2). (3-20-20)

03. PERSI Selects Retirement Option. Any member required to take minimum distributions, as provided in this Section 508, and fails to complete and submit an approved retirement application and select either a regular or optional retirement allowance by April 1 following the later of (a) the commencement year or (b) the year in which the member retires shall be deemed to have made the following selection: (3-20-20)

a. If single, a regular retirement allowance and no other selection shall be required or permitted. (3-20-20)

b. If married, Option 1 and no other selection shall be required or permitted, unless proof is provided that spouse has no community property interest in the benefit. (3-20-20)

04. Lifetime Distributions. Distribution shall be made over the life of the participant or the lives of the participant and his beneficiary; or over a period certain not extending beyond the life expectancy of the member or the joint life and last survivor expectancy of the member and his beneficiary. (3-20-20)

05. Timing of Required Distributions. A required distribution shall be deemed to have been made during the commencement year if actually made by the following April 1, but such delayed distribution shall not change the amount of such distribution, and the distribution otherwise required during the subsequent calendar year shall be calculated as if the first distribution had been made on the last day of the commencement year. (3-20-20)

06. Adjustment of Required Distributions. Benefits paid prior to the commencement year shall reduce the aggregate amount subject to (but shall not otherwise negate) the minimum distribution requirements described herein. (3-20-20)

07. Benefits Deferred Beyond Service Retirement. The first payment of benefits of an inactive member following deferment beyond service retirement will be in a lump sum that includes payment for those months of service dating from the date of service retirement when a monthly retirement payment would have started through the current monthly payment. Subsequent payments will be for the monthly retirement allowance only. (3-20-20)

08. Death Benefits. All death benefits payable under the Base Plan will be distributed as soon as administratively practicable after request, but must in any event be distributed within fifteen (15) months of the member's death, unless the identity of the beneficiary is not ascertainable. (3-20-20)

509. TRANSFERS TO NON-SPOUSE BENEFICIARIES.
Notwithstanding any other provision of the Base Plan to the contrary that would otherwise limit the options of the beneficiary of a deceased member who is not the member's spouse, the administrator shall, upon the request of such a beneficiary, transfer a lump sum distribution to the trustee of an individual account established under Section 408 of the IRS Code in accordance with the provisions of Section 402(e)(11) of the IRS Code. (3-20-20)

510. -- 524. (RESERVED)

SUBCHAPTER F – PERSI RETIREMENT RULES
Rules 525 through 649

525. AVERAGE MONTHLY SALARY COMPUTATION -- EQUITABLE TREATMENT -- DIFFERENT WORK PERIODS.
Equitable treatment for all members can be achieved only if members whose career patterns covering the same time frame and who received identical annual salaries during each of the twelve-month periods of that time frame accrue the same monthly service retirement allowance. To achieve this equity for the member whose annual salary has been paid on other than a twelve-month salary schedule during any contractual or like twelve-month period, the average monthly salary used for each one of those twelve-month periods will be determined from the total base period salary by using a divisor representing the months of membership service which would have been accumulated at that rate over a full base period.
Statutory Reference: Sections 59-1302(5A), 59-1391(b), Idaho Code. (3-20-20)

526. UNUSUAL COMPENSATION PATTERN EFFECT ON RETIREMENT CALCULATION.
Upon application for a retirement benefit, any portion of compensation which represents payments in excess of and inconsistent with the usual compensation pattern, for example, but not limited to lump sum contract payouts, excess vacation paid but not taken, paid sick leave, or a clothing allowance will not be considered in determining benefits. (3-20-20)

527. MAXIMUM RETIREMENT ALLOWANCE (RULE 111).
If the amount of a member's initial retirement allowance on the date of retirement would exceed the average salary during the member's highest thirty-six (36) consecutive calendar months of salary, then the member's initial retirement allowance will be limited to the greater of: the average salary during the highest thirty-six (36) consecutive calendar months of salary; or the initial retirement allowance based on credited service through April 1990. Optional retirement allowances will be computed after any limitation above has been applied. (3-20-20)

528. MEMBER NOTIFIED OF AVAILABLE RETIREMENT OPTIONS PRIOR TO BOARD APPROVAL.
The Retirement Board shall not act on any application for retirement unless the member has previously been provided with notification of the regular retirement option and options one (1) and two (2) election available to the member including the value of the monthly allowance of each. The value of options three (3) and four (4) will be provided if the member so requests the value of the option and provides information required to calculate that option (such as but not limited to social security benefit estimates) which is not available to PERSI but that can be provided by the member. (3-20-20)

529. -- 530. (RESERVED)

531. SPOUSAL CONSENT.
Except as provided in this rule, a member is required to complete and submit an approved retirement application and select either a regular or optional retirement allowance. The member's signature must be notarized. The application for retirement indicating the election made by the retiring member shall also be signed by the spouse certifying the spouse understands and consents to the election made by the member. The spouse's signature must be notarized. (3-20-20)

532. PAYMENT DATE OF EARLY OR SERVICE RETIREMENT ALLOWANCE -- GENERAL MEMBERS.
As set forth by Section 59-1344, Idaho Code, a PERSI member's service retirement allowance or early retirement allowance is payable on the first of the month following the month in which the member ceases to be an employee while eligible for either of these forms of retirement.
Statutory References: Section 59-1344 and 59-1356(2), Idaho Code. (3-20-20)

533. ELECTED OR APPOINTED OFFICIAL WORKING FOR MULTIPLE STATE AGENCIES, POLITICAL SUBDIVISIONS OR GOVERNMENT ENTITIES.
An active member separated from employment by one (1) state agency, political subdivision or government entity for whom he or she did normally work twenty (20) hours or more per week and who is age sixty-two (62) or older and eligible to retire but remains an elected or appointed official with a different state agency, political subdivision or

government entity, may retire and continue in that elected or appointed position provided that position is one in which he or she does not normally work twenty (20) hours or more per week. The member shall receive retirement allowances under the conditions provided by Section 538.
Statutory References: Sections 59-1344 and 59-1356(2), Idaho Code. (3-20-20)

534. ELECTED OR APPOINTED OFFICIAL RETIRING IN PLACE.
An active member serving as an elected or appointed official who does not normally work twenty (20) hours or more per week who is age sixty-two (62) or older and eligible to retire and who is not an eligible employee with another state agency, political subdivision or government entity pursuant to Section 101 may then retire and continue in that position. The member shall receive retirement allowances under the conditions provided by Section 538.
Statutory References: Sections 59-1344 and 59-1356(2), Idaho Code. (3-20-20)

535. RESTRICTIONS ON REEMPLOYMENT OF RETIRED MEMBERS.
There are no restrictions placed upon employment or earnings of retired members except with respect to employment by a state agency, political subdivision or government entity member of PERSI. Unless specified otherwise, the conditions of reemployment outlined in this subchapter apply for employment with any state agency, political subdivision or government entity member of the system.
Statutory Reference: Section 59-1356, Idaho Code. (3-20-20)

536. RETIRED MEMBER BECOMING AN ACTIVE MEMBER.
A PERSI retired member employed in a position which involves service of normally twenty (20) hours or more per week for a period of five (5) or more consecutive months or longer will return to the status of an active member. Retirement benefits will suspend on reemployment and employee and employer contributions will resume to provide additional retirement credits. If a retired member is reemployed in a position which involves service of twenty (20) hours or more per week for a period of less than five (5) consecutive months, their monthly retirement benefits will continue to be paid. If the member's reemployment should equal or exceed the five (5) month period for any reason, the member will be required to repay the retirement benefits paid during the five (5) month period which they were reemployed and they will return to the status of an active member. Employee and employer contributions will be due for the five (5) consecutive month period.
Statutory Reference: Section 59-1356, Idaho Code. (3-20-20)

537. REEMPLOYMENT LESS THAN FIVE CONSECUTIVE MONTHS.
If the period of reemployment develops to be less than five (5) consecutive months, contributions will be refunded and retirement allowances will resume as of the date they were discontinued.
Statutory Reference: Section 59-1356, Idaho Code. (3-20-20)

538. REEMPLOYMENT -- WORKING LESS THAN TWENTY HOURS OR LESS THAN FIVE CONSECUTIVE MONTHS.
Monthly retirement allowances will continue to be paid to the PERSI retired member who returns to employment in a position where the member does not normally work twenty (20) hours or more per week or the reemployment is for a period which does not total five (5) consecutive months and the state agency, political subdivision or government entity so certifies. In such cases, employee and employer contributions are neither required nor acceptable and no new retirement credits can be earned.
Statutory Reference: Section 59-1356, Idaho Code. (3-20-20)

539. RETIRED MEMBER BECOMING AN ELECTED OR APPOINTED OFFICIAL.
A PERSI retired member who is subsequently elected or appointed by an employer to public office and who is not normally required to perform services of twenty (20) hours or more per week in that position may continue to receive retirement allowances in the status of a reemployed retired member under conditions outlined by Section 537.
Statutory Reference: Section 59-1356, Idaho Code. (3-20-20)

540. SEPARATION FROM EMPLOYMENT AFTER REEMPLOYMENT.
Upon subsequent separation from employment after reemployment, the member's original monthly retirement allowance will resume with appropriate cost-of-living adjustments plus the addition of a separate allowance computed with respect to salary and service credited during the reemployment period.
Statutory Reference: Section 59-1356, Idaho Code. (3-20-20)

541. EARLY RETIREMENT MEMBER -- REEMPLOYMENT.
A PERSI member who had been receiving an early retirement allowance and who returns to employment as an active member may refund all retirement benefits previously paid plus regular interest accrued from the date each monthly allowance had been paid, thereby negating the previous retirement status. The month of last contribution prior to the negated retirement and the month of initial contribution upon return to active membership shall be considered consecutive months of contributions in the determination of an appropriate salary base period upon subsequent retirement.
Statutory Reference: Section 59-1356, Idaho Code. (3-20-20)

542. BENEFIT ENHANCEMENT -- QUALIFICATION.
To qualify for a benefit enhancement, a person must remain an active member through the day following the effective date of the enhancement. (3-20-20)

543. POST RETIREMENT ALLOWANCE ADJUSTMENTS -- PERSI RETIREES.
The Board shall annually determine the post retirement cost of living adjustment (COLA) for the Public Employee Retirement System of Idaho (PERSI) pursuant to Section 59-1355, Idaho Code. The Board shall have discretion in adopting a yearly discretionary and/or retro-active COLA. The Board shall yearly adopt this COLA no later than the December Board meeting of each year with an effective date of March 1 of the next year.
Statutory References: Section 59-1355, Idaho Code. (3-20-20)

544. ACTUARIAL ASSUMPTION TABLES.
The actuarial tables used for determining optional and early retirement benefits are as follows:

TABLE A -- PAGE 1
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS
If the date of last contribution is prior to 10/1/92

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.970	.940	.910	.880	.850	.770	.690	.610	.530	.450
1	.998	.968	.938	.908	.878	.843	.763	.683	.603	.523	
2	.995	.965	.935	.905	.875	.837	.757	.677	.597	.517	
3	.993	.963	.933	.903	.873	.830	.750	.670	.590	.510	
4	.990	.960	.930	.900	.870	.823	.743	.663	.583	.503	
5	.988	.958	.928	.898	.868	.817	.737	.657	.577	.497	
6	.985	.955	.925	.895	.865	.810	.730	.650	.570	.490	
7	.983	.953	.923	.893	.863	.803	.723	.643	.563	.483	
8	.980	.950	.920	.890	.860	.797	.717	.637	.557	.477	
9	.978	.948	.918	.888	.858	.790	.710	.630	.550	.470	
10	.975	.945	.915	.885	.855	.783	.703	.623	.543	.463	
11	.973	.943	.913	.883	.853	.777	.697	.617	.537	.457	

First sixty months reduction: 0.2500% Next sixty months reduction: 0.6667% (3-20-20)

TABLE A -- PAGE 2
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS
If the date of last contribution is on or after 10/1/92 but prior to10/1/93

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.970	.940	.910	.880	.850	.777	.705	.632	.560	.487
1	.998	.968	.938	.908	.878	.844	.771	.699	.626	.554	
2	.995	.965	.935	.905	.875	.838	.765	.693	.620	.548	
3	.993	.963	.933	.903	.873	.832	.759	.687	.614	.542	
4	.990	.960	.930	.900	.870	.826	.753	.681	.608	.536	
5	.988	.958	.928	.898	.868	.820	.747	.675	.602	.530	
6	.985	.955	.925	.895	.865	.814	.741	.669	.596	.524	
7	.983	.953	.923	.893	.863	.808	.735	.663	.590	.518	
8	.980	.950	.920	.890	.860	.802	.729	.657	.584	.512	
9	.978	.948	.918	.888	.858	.796	.723	.651	.578	.506	
10	.975	.945	.915	.885	.855	.790	.717	.645	.572	.500	
11	.973	.943	.913	.883	.853	.784	.711	.639	.566	.494	

First sixty months reduction: 0.2500% Next sixty months reduction: 0.6042% (3-20-20)

TABLE A -- PAGE 3
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS
If the date of last contribution is on or after 10/1/93 but prior to10/1/94

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.970	.940	.910	.880	.850	.785	.720	.655	.590	.525
1	.998	.968	.938	.908	.878	.845	.780	.715	.650	.585	
2	.995	.965	.935	.905	.875	.839	.774	.709	.644	.579	
3	.993	.963	.933	.903	.873	.834	.769	.704	.639	.574	
4	.990	.960	.930	.900	.870	.828	.763	.698	.633	.568	
5	.988	.958	.928	.898	.868	.823	.758	.693	.628	.563	
6	.985	.955	.925	.895	.865	.817	.752	.687	.622	.557	
7	.983	.953	.923	.893	.863	.812	.747	.682	.617	.552	
8	.980	.950	.920	.890	.860	.807	.742	.677	.612	.547	
9	.978	.948	.918	.888	.858	.801	.736	.671	.606	.541	

TABLE A -- PAGE 3 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO EARLY RETIREMENT FACTORS If the date of last contribution is on or after 10/1/93 but prior to10/1/94											
Months	**Years**										
10	.975	.945	.915	.885	.855	.796	.731	.666	.601	.536	
11	.973	.943	.913	.883	.853	.790	.725	.660	.595	.530	

First sixty months reduction: 0.2500% Next sixty months reduction: 0.5417% (3-20-20)

TABLE A -- PAGE 4 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO EARLY RETIREMENT FACTORS Date of last contribution is on or after 10/1/94 or later											
Months	**Years**										
	0	1	2	3	4	5	6	7	8	9	10
0	1.0	.970	.940	.910	.880	.850	.792	.735	.677	.620	.562
1	.998	.968	.938	.908	.878	.845	.788	.730	.673	.615	
2	.995	.965	.935	.905	.875	.840	.783	.725	.668	.610	
3	.993	.963	.933	.903	.873	.836	.778	.721	.663	.606	
4	.990	.960	.930	.900	.870	.831	.773	.716	.658	.601	
5	.988	.958	.928	.898	.868	.826	.769	.711	.654	.596	
6	.985	.955	.925	.895	.865	.821	.764	.706	.649	.591	
7	.983	.953	.923	.893	.863	.816	.759	.701	.644	.586	
8	.980	.950	.920	.890	.860	.812	.754	.697	.639	.582	
9	.978	.948	.918	.888	.858	.807	.749	.692	.634	.577	
10	.975	.945	.915	.885	.855	.802	.745	.687	.630	.572	
11	.973	.943	.913	.883	.853	.797	.740	.682	.625	.567	

(3-20-20)

TABLE B -- Page 1 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4 AND CERTAIN DEATH BENEFITS Options 3 and 4: Years and Months Until Member Would Be Social Security Retirement Age Death Benefits: Additional Years and Months Until Member Would Qualify for an Unreduced Service Retirement Allowance AFTER Applying Table A factors											
Months	**Years**										
	0	1	2	3	4	5	6	7	8	9	10

TABLE B -- Page 1
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4 AND CERTAIN DEATH BENEFITS
Options 3 and 4: Years and Months Until Member Would Be Social Security Retirement Age
Death Benefits: Additional Years and Months Until Member Would Qualify
for an Unreduced Service Retirement Allowance
AFTER Applying Table A factors

Months	Years										
0	1.00	.923	.853	.787	.727	.671	.620	.572	.528	.488	.451
1	.993	.917	.847	.782	.722	.667	.616	.568	.525	.485	
2	.987	.911	.841	.777	.717	.662	.612	.565	.521	.481	
3	.980	.905	.836	.772	.713	.658	.608	.561	.518	.478	
4	.974	.899	.830	.767	.708	.654	.604	.557	.515	.475	
5	.967	.893	.825	.762	.703	.649	.600	.554	.511	.472	
6	.961	.887	.819	.756	.699	.645	.596	.550	.508	.469	
7	.955	.881	.814	.751	.694	.641	.592	.546	.504	.466	
8	.948	.876	.808	.746	.689	.636	.588	.543	.501	.463	
9	.942	.870	.803	.742	.685	.632	.584	.539	.498	.460	
10	.936	.864	.798	.737	.680	.628	.580	.535	.494	.457	
11	.930	.858	.793	.732	.676	.624	.576	.532	.491	.454	

(3-20-20)

TABLE B -- Page 2
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4 AND CERTAIN DEATH BENEFITS
Options 3 and 4: Years and Months Until Member Would Be Social Security Retirement Age
Death Benefits: Additional Years and Months Until Member Would Qualify
for an Unreduced Service Retirement Allowance
AFTER Applying Table A factors

Months	Years										
	10	11	12	13	14	15	16	17	18	19	20
0	.451	.416	.384	.355	.327	.302	.279	.258	.238	.220	.203
1	.448	.413	.382	.352	.325	.300	.277	.256	.236	.218	
2	.445	.411	.379	.350	.323	.298	.276	.254	.235	.217	
3	.442	.408	.377	.348	.321	.296	.274	.253	.233	.215	
4	.439	.405	.374	.345	.319	.294	.272	.251	.232	.214	
5	.436	.402	.372	.343	.317	.293	.270	.249	.230	.213	
6	.433	.400	.369	.341	.315	.291	.268	.248	.229	.211	
7	.430	.397	.367	.339	.313	.289	.267	.246	.227	.210	

TABLE B -- Page 2
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4 AND CERTAIN DEATH BENEFITS
Options 3 and 4: Years and Months Until Member Would Be Social Security Retirement Age
Death Benefits: Additional Years and Months Until Member Would Qualify
for an Unreduced Service Retirement Allowance
AFTER Applying Table A factors

Months	Years										
8	.427	.394	.364	.336	.311	.287	.265	.244	.226	.208	
9	.424	.392	.362	.334	.308	.285	.263	.243	.224	.207	
10	.422	.389	.359	.332	.306	.283	.261	.241	.223	.206	
11	.419	.387	.357	.330	.304	.281	.260	.240	.221	.204	

(3-20-20)

TABLE B -- Page 3
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4
AND CERTAIN DEATH BENEFITS
Options 3 and 4: Years and Months Until Member
Would Be Social Security Retirement Age
Death Benefits: Additional Years and Months Until Member Would Qualify
for an Unreduced Service Retirement Allowance
AFTER Applying Table A Factors

Months	Years					
	20	21	22	23	24	25
0	.203	.187	.173	.160	.148	.136
1	.202	.186	.172	.159	.147	.135
2	.200	.185	.171	.158	.146	.134
3	.199	.184	.170	.157	.145	.134
4	.198	.183	.169	.156	.144	.133
5	.196	.181	.167	.155	.143	.132
6	.195	.180	.166	.154	.142	.131
7	.194	.179	.165	.153	.141	.130
8	.192	.178	.164	.152	.140	.129
9	.191	.177	.163	.151	.139	.128
10	.190	.175	.162	.150	.138	.127
11	.189	.174	.161	.149	.137	.127

(3-20-20)

TABLE C -- Page 1
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
CONTINGENT ANNUITANT FACTORS
For persons retiring before July 1, 1995

	Age Difference in Years	Factors	
		Option 1	Option 2
	15 *	0.600	0.750
	14	0.610	0.758
	13	0.621	0.766
	12	0.631	0.775
	11	0.642	0.782
Member	10	0.652	0.789
Older	9	0.663	0.797
Than	8	0.674	0.804
Contingent Annuitant	7	0.685	0.812
	6	0.697	0.821
	5	0.708	0.830
	4	0.720	0.838
	3	0.732	0.846
	2	0.746	0.855
	1	0.762	0.865
	0	0.780	0.876
	1	0.799	0.887
	2	0.823	0.902
	3	0.836	0.910
	4	0.847	0.918
	5	0.856	0.924
Member	6	0.865	0.930
Younger	7	0.873	0.935
Than	8	0.881	0.940
Contingent Annuitant	9	0.888	0.944
	10	0.897	0.949
	11	0.906	0.955

TABLE C -- Page 1 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO CONTINGENT ANNUITANT FACTORS For persons retiring before July 1, 1995			
	Age Difference in Years	**Factors**	
	12	0.916	0.961
	13	0.926	0.967
	14	0.934	0.969
	15 or more	0.940	0.970

*For each year the member is more than fifteen (15) years older than the contingent annuitant subtract .01 from the factor for Option 1 and subtract .006 from the factor for Option 2. (3-20-20)

TABLE C -- Page 2 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO CONTINGENT ANNUITANT FACTORS For persons retiring on or after July 1, 1995			
	Age Difference in Years	**Factors**	
		Option 1	Option 2
	15 *	0.690	0.810
	14	0.700	0.816
	13	0.710	0.822
	12	0.720	0.828
	11	0.730	0.834
Member	10	0.735	0.840
Older	9	0.740	0.846
Than	8	0.745	0.852
Contingent Annuitant	7	0.750	0.858
	6	0.755	0.864
	5	0.760	0.870
	4	0.765	0.876
	3	0.770	0.882
	2	0.785	0.888
	1	0.800	0.894
	0	0.815	0.900
	1	0.835	0.915

TABLE C -- Page 2 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO CONTINGENT ANNUITANT FACTORS For persons retiring on or after July 1, 1995			
	Age Difference in Years	**Factors**	
	2	0.855	0.925
	3	0.875	0.935
	4	0.890	0.945
	5	0.900	0.950
Member	6	0.910	0.955
Younger	7	0.920	0.960
Than	8	0.930	0.965
Contingent Annuitant	9	0.940	0.967
	10	0.944	0.969
	11	0.946	0.971
	12	0.948	0.973
	13	0.950	0.975
	14	0.952	0.977
	15 or more	0.954	0.979

*For each year the member is more than fifteen (15) years older than the contingent annuitant subtract .01 from the factor for Option 1 and subtract .006 from the factor for Option 2. (Amended 96) (3-20-20)

TABLE C -- Page 3 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO CONTINGENT ANNUITANT FACTORS For persons retiring on or after July 1, 2011			
	Age Difference in Years	**Factors**	
		Option 1	Option 2
	15 *	0.729	0.851
	14	0.736	0.856
	13	0.743	0.861
	12	0.750	0.866
	11	0.757	0.871
Member	10	0.764	0.876
Older	9	0.771	0.881
Than	8	0.778	0.886
Contingent Annuitant	7	0.785	0.891

TABLE C -- Page 3 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO CONTINGENT ANNUITANT FACTORS For persons retiring on or after July 1, 2011			
	Age Difference in Years	**Factors**	
	6	0.792	0.896
	5	0.799	0.902
	4	0.808	0.908
	3	0.818	0.914
	2	0.833	0.920
	1	0.848	0.926
	0	0.863	0.932
	1	0.875	0.938
	2	0.887	0.944
	3	0.895	0.949
	4	0.902	0.954
	5	0.909	0.959
Member	6	0.916	0.963
Younger	7	0.923	0.966
Than	8	0.930	0.968
Contingent Annuitant	9	0.940	0.970
	10	0.944	0.972
	11	0.946	0.974
	12	0.948	0.976
	13	0.950	0.978
	14	0.952	0.980
	15 or more	0.954	0.982

*For each year the member is more than fifteen (15) years older than the contingent annuitant subtract .01 from the factor for Option 1 and subtract .01 from the factor for Option 2. (3-20-20)

545. PRE-ERISA VESTING RULES.

01. Termination or Partial Termination. Upon the effective date of any termination or partial termination or upon a complete discontinuation of contributions: (3-20-20)

a. No persons who were not theretofore members shall be eligible to become members; (3-20-20)

b. No further benefits shall accrue; and (3-20-20)

c. The accrued benefits of all members not theretofore vested and not theretofore forfeited shall immediately become fully vested. (3-20-20)

546. FORFEITURES.
Forfeitures will not be applied to increase the benefits any employee would otherwise receive under the Base Plan. (3-20-20)

547. ACTUARIAL ASSUMPTIONS TO BE SPECIFIED.
Whenever the amount of any Base Plan benefit is to be determined on the basis of actuarial assumptions, such assumptions will be specified in rule in a manner that precludes employer discretion. (3-20-20)

548. COMPENSATION LIMIT.

01. Limit. Except for members of the system prior to July 1, 1996, as provided in Section 59-1302(31)(B), Idaho Code, the annual compensation of each participant taken into account in determining benefit accruals in any plan year beginning after December 31, 2001, shall not exceed two hundred thousand dollars ($200,000). Annual compensation means compensation during the calendar year (the determination period). In determining benefit accruals for determination periods beginning before January 1, 2002, compensation shall be two hundred thousand dollars ($200,000). (3-20-20)

02. Limit Adjustment. The two hundred thousand dollars ($200,000) limit on annual compensation in Subsection 548.01 shall be adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the IRS Code. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. (3-20-20)

549. DEFINED BENEFIT DOLLAR LIMITATION.
The "defined benefit dollar limitation" is one hundred sixty thousand dollars ($160,000), as adjusted, effective January 1 of each year thereafter, under Section 415(d) of the IRS Code in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under Section 415(d) will apply to limitation years ending with or within the calendar year for which the adjustment applies. The "maximum permissible benefit" is the defined benefit dollar limitation (adjusted where required, as provided in Subsection 549.01 and, if applicable, in Subsections 549.02 through 549.04 of these rules). (3-20-20)

01. Less Than Ten Years of Service. If the participant has fewer than ten (10) years of participation in the plan, the defined benefit dollar limitation shall be multiplied by a fraction: (3-20-20)

a. The numerator of which is the number of years (or part thereof) of participation in the plan; and (3-20-20)

b. The denominator of which is ten (10). (3-20-20)

02. Benefit Begins Prior to Age Sixty-Two. If the benefit of a participant begins prior to age sixty-two (62), the defined benefit dollar limitation applicable to the participant at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the participant at age sixty-two (62) (adjusted under Subsection 549.01, if required). The defined benefit dollar limitation applicable at an age prior to age sixty-two (62) is determined as set forth in IRS regulation under section 415(b)(2) of the IRS Code. This Subsection 549.02 does not apply to participants who have at least fifteen (15) years of credited service for which the member was classified as a police officer or firefighter. (3-20-20)

03. Benefit Begins at Age Sixty-Five. If the benefit of a participant begins after the participant attains age sixty-five (65), the defined benefit dollar limitation applicable to the participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the participant at age sixty-five (65) (adjusted under Subsection 549.01, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age sixty-five (65) is determined as set forth in IRS regulation under section 415(b)(2) of the IRS Code. (3-20-20)

04. **Transition**. Benefit increases resulting from the increase in the limitations of section 415(b) of the IRS Code shall be provided to all current and former participants (with benefits limited by section 415(b)) who have an accrued benefit under the plan immediately prior to the effective date of this Section (other than an accrued benefit resulting from a benefit increase solely as a result of the increases in limitations under section 415(b)). (3-20-20)

550. COMPUTATION OF BENEFITS FOR EMPLOYEES OF WITHDRAWN EMPLOYER.

01. **PERSI's Responsibility**. PERSI's responsibility to a withdrawing political subdivision or governmental entity or its employees is limited to the vested accrued actuarial benefits of the system's members upon the date of complete withdrawal, Section 59-1326(10), Idaho Code. (3-20-20)

02. **Withdrawal Liability Calculations**. On the occasion that a withdrawing political subdivision or governmental entity fails to pay, in full with accrued interest from date of withdrawal, the withdrawal liability calculated in accordance with Section 59-1326(7), Idaho Code, PERSI shall exhaust all efforts to collect the outstanding withdrawal liability as follows: (3-20-20)

a. Collect the full withdrawal liability from withdrawing political subdivision or governmental entity at date of withdrawal. If full withdrawal liability is not paid, then; (3-20-20)

b. Contract with withdrawing political subdivision or governmental entity, in accordance with section 59-1326(9) and file a lien on the assets of the withdrawing political subdivision or governmental entity. If scheduled payments are not timely made or assets are insufficient or unavailable, then; (3-20-20)

c. PERSI will pursue collection efforts against the authorizing state agency, political subdivision or governmental entity that caused the withdrawing political subdivision or governmental entity to be formed. If these collection efforts are ineffective, then; (3-20-20)

d. PERSI will cause an actuarial study to be performed for the withdrawing political subdivision or governmental entity and its employees to determine the actuarial value of the accrued benefits at time of withdrawal and will reduce an employee's benefit to match funded status. (3-20-20)

551. COMPUTING VALUE OF SICK LEAVE.
For those members who accrue sick leave based upon each month of service, the rate of pay for purposes of computing the monetary value of a retired member's unused sick leave as outlined in Sections 59-1365, 67-5333, and 33-2109A, Idaho Code, shall be the base hourly rate of compensation reported by the employer during the month of separation from employment prior to retirement, not including any temporary increases, bonuses, or payoffs. For those members employed on a contract basis under Section 33-1228, Idaho Code, the rate of pay for purposes of computing the monetary value of a retiring member's unused sick leave based upon each month of service shall be determined at a daily rate by dividing the annual contract amount by the required days of work. No temporary increases, bonuses or payoffs shall be included in the contract amount. Where the daily rate is affected by changes in the work week such as adoption of a four (4) day work week or similar events, adjustments shall be made to convert the daily rate to maintain equity within the pool. No other forms of leave may be converted to sick leave or otherwise considered in computing the value of unused sick leave. (3-20-20)

552. SICK LEAVE FUNDING RATES.
The sick leave pools shall be funded by employer contributions as follows: (3-20-20)

01. **State Agencies and Junior College Districts**. All employer groups participating in the pools established by Sections 33-2109A and 67-5333, Idaho Code, shall contribute point sixty-five percent (.65%) of employee covered payroll. (3-20-20)

02. **Schools**. All employer groups participating in the pool established by Section 33-1228, Idaho Code, shall contribute the percentage of employee covered payroll based on the number of days of paid sick leave permitted during the contract year for certified teachers as set forth in the following table:

Beginning:	July 1, 2006
9-10 days	1.16%
11-14 days	1.26%
More than 14 days	Individual rate to be set by the Retirement Board based on current cost and actuarial data and reviewed annually

Where a four (4) day work week or similar policies have been adopted, adjustments shall be made to convert the number of days of paid sick leave to the contribution level necessary to maintain equity within the pool. (3-20-20)

03. Subdivisions. All political subdivision or government entity groups participating in the pool established by Section 59-1365, Idaho Code, shall make contributions as provided in Section 578. (3-20-20)

553. LIMITATION ON INSURANCE PROGRAMS.
The health, accident, and life insurance programs maintained by state agencies, political subdivisions or government entities as outlined in Sections 59-1365, 33-1228, and 33-2109A, Idaho Code, are limited to plans where the policy holder is the state agency, political subdivision or government entity or a consortium of state agencies, political subdivisions or government entities. Insurance programs outlined in Section 67-5333, Idaho Code, shall be maintained by the state agency, political subdivision or government entity. The board may require plans to sign an agreement before participating. (3-20-20)

554. PAYMENT OF INSURANCE PREMIUMS.
Upon certification by the state agency, political subdivision or government entity and the insurance carrier that a plan qualifies under Section 553 of this subchapter, the board may pay the monthly premiums for a retired member using unused sick leave account funds as prescribed by Idaho Code. (3-20-20)

01. Adjustments. Coverage and premium changes or adjustments must be submitted to PERSI no less than thirty (30) days prior to their effective date unless PERSI has previously agreed in writing to a shorter period. (3-20-20)

02. Duration of Payments. Premium payments will continue to be made from the unused sick leave account until credits are insufficient to make a premium payment, or until the retiree's death, whichever first occurs. (3-20-20)

555. SEPARATION BY REASON OF RETIREMENT.
Unused sick leave benefits are credited only to employees who are eligible to retire at the time they separate from the state agency, political subdivision or government entity. When an employee separates from service and does not immediately retire, unused sick leave benefits are credited to the member but not available for use unless the member actually retires without intervening employment resulting in PERSI participation. The existence of available unused sick leave credits does not necessarily mean they are usable. A member must also be eligible to participate in the retiree plan offered by the state agency, political subdivision or government entity from which the member retired. Except for school district employees transferring from one (1) district to another, unused sick leave credits may not be transferred from one (1) state agency, political subdivision or government entity to another. If a member negates their retirement under Section 541 and returns to work for a new PERSI state agency, political subdivision or government entity, unused sick leave credits are also negated and eligibility for unused sick leave credits must be reestablished with the new state agency, political subdivision or government entity. (3-20-20)

556. PROHIBITION AGAINST CASH OPTION.
All state agencies, political subdivisions or government entities participating in any PERSI administered sick leave pool are prohibited from offering or permitting any employee to convert unused sick leave to cash, other forms of leave, or any other benefit, even if the employee is not eligible to receive credits. Failure to comply with this prohibition will result in the state agencies, political subdivisions or government entities inability to participate in PERSI administered unused sick leave pools. (3-20-20)

557. -- 575. (RESERVED)

576. PARTICIPATION IN SUBDIVISION UNUSED SICK LEAVE POOL.
Any PERSI state agency, political subdivision or government entity meeting the following requirements may elect to participate in the unused sick leave pool authorized by Section 59-1365, Idaho Code: (3-20-20)

01. No Current Plan. The state agency, political subdivision or government entity does not participate in any other statutorily created plan that offers benefits for unused sick leave, including but not limited to, those plans created under Sections 33-1228, 33-2109, and 67-5333, Idaho Code. (3-20-20)

02. All Inclusive Participation. All of a participating state agencies, political subdivisions or government entities employees who are PERSI members and who accrue sick leave must be participants in the plan, except that state agencies, political subdivisions or government entities may exclude certain distinctive classes of employees for legitimate business reasons. For example, a city could exclude employees covered by a collective bargaining agreement, or a county may choose to exclude elected officials. (3-20-20)

03. No Other Options for Unused Sick Leave. No employee may be given any option to receive benefits from unused sick leave other than through this plan. For example, no employee, other than those properly excluded under Subsection 576.02, may be given the option of exchanging sick leave for cash or other forms of payment or leave. (3-20-20)

04. Fixed Annual Accrual of Sick Leave. State agency, political subdivision or government entity must comply with a policy that offers a fixed amount of sick leave annually that is applicable to all employees or employee groups. A "personal leave" option that fails to distinguish between sick, vacation, or other forms of leave is not permitted. (3-20-20)

05. Medicare Eligible Retirees. State agencies, political subdivisions or government entities plan must provide coverage to all retired employees eligible for unused sick leave credits, including retirees that become Medicare eligible. (3-20-20)

06. Annual Application. State agency, political subdivision or government entity must annually update and submit an application for participation in the Subdivision Unused Sick Leave Pool on the form prescribed by PERSI. (3-20-20)

577. OPERATION OF SUBDIVISION POOL.
Upon separation from employment by retirement, in accordance with Chapter 13, Title 59, Idaho Code, every employee of a participating state agency, political subdivision or government entity shall, upon payment by the state agency, political subdivision or government entity under Section 578, receive a credit for unused sick leave in the same manner and under the same terms as provided in Section 67-5333(1), Idaho Code. (3-20-20)

578. FUNDING OF SUBDIVISION POOL.
Participating state agencies, political subdivisions or government entities shall, within ten (10) days of retiree's last day in pay status, pay to PERSI a sum equal to the retiree's unused sick leave credit, together with any administrative fees the board may require. Investment earnings on funds paid into this pool will remain in the pool, together with any reversions due to the death of a retiree, and may be used by the board to pay some or all administrative costs. (3-20-20)

579. TERMINATION, WITHDRAWAL, OR REMOVAL FROM SUBDIVISION POOL.
Any state agency, political subdivision or government entity failing to meet the requirements of participation provided by Section 576 shall be terminated from participation in the Subdivision Pool. Any state agency, political subdivision or government entity failing to meet the funding requirements provided by Section 578 shall be terminated from participation in the Subdivision Pool, provided however, a state agency, political subdivision or government entity may submit a detailed explanation for its failure to meet the funding requirements as required in Section 578 and subject to PERSI approval. State agencies, political subdivisions or government entities that have withdrawn or have been terminated shall not be allowed to rejoin. (3-20-20)

580. -- 599. (RESERVED)

600. PAYMENT DATE OF RETIREMENT ALLOWANCE FOR FRF MEMBERS.
A paid firefighter who retires under the provisions of Chapter 14, Title 72, Idaho Code, is entitled to a retirement allowance computed from the date following separation from employment, payable at the end of the calendar month following separation from employment. (3-20-20)

601. FIREFIGHTER RETIREMENT ALLOWANCE.
Notwithstanding Sections 525 and 526 of this subchapter, the retirement allowances of firefighter members, as defined by Section 59-1391(b), Idaho Code, shall be determined pursuant to the provisions of Chapter 14, Title 72, Idaho Code. (3-20-20)

602. REEMPLOYMENT OF RETIRED FRF FIREFIGHTER.
A paid firefighter retired under the provisions of Chapter 14, Title 72, (FRF), Idaho Code, who returns to employment as a paid firefighter with the same fire department from which retired shall be considered reemployed in the manner provided for PERSI members by Section 59-1356(1), Idaho Code. Retirement benefits shall then terminate and contributions shall again commence under conditions specified prior to retirement. The terminated benefit shall resume upon subsequent retirement with adjustments made in the manner prescribed by Section 59-1356(1), Idaho Code, as they would apply to the member's retirement benefit entitlement computed under the provisions of Chapter 14, Title 72, Idaho Code.
Statutory References: Section 59-1356, Idaho Code. (3-20-20)

603. -- 624. (RESERVED)

625. PURCHASE OF SERVICE GENERALLY.
No member may purchase more than forty-eight (48) months of membership service, whether purchased under Section 59-1362, or 59-1363, Idaho Code, or a combination thereof. In all cases, the cost of purchasing service shall be the full actuarial costs, as determined by the board, of providing additional benefits resulting from the purchased service. Service may only be purchased at the time of retirement. In no event can a member revoke a purchase of service after payment has been made. (3-20-20)

626. TIME OF RETIREMENT.
Within ninety (90) days before a member's effective date of retirement, the member may request the cost of service to be purchased. Costs provided for purchased service are valid only for the effective date requested. Purchased service will be calculated into the member's benefit only to the extent that it is paid by the effective date. In no event shall service be credited for which payment has not been made. Service may be purchased with after-tax dollars or with eligible rollover distributions. The member's service class at the time of purchase determines the class of service that may be purchased. (3-20-20)

627. RETIREMENT DELAYED OR NEGATED AFTER PURCHASE.
If a member purchases service and thereafter revokes their application for retirement or negates their retirement as provided in Rule 541, the contributions made to purchase the service shall remain in the system until a distributable event occurs. If the distributable event results in payment of a monthly retirement benefit or an optional death benefit, the purchase price of the service previously purchased will be recalculated based on factors existing on the date the new benefit becomes effective. If, based on the new factors, the purchase price is higher than previously determined, the number of months purchased will be reduced to reflect the higher cost unless the member elects to pay the difference. If the purchase price is lower, the difference will be paid to the member as a lump-sum payment within sixty (60) days after the date of retirement unless the member elects to convert the difference into additional months and can do so without exceeding the forty-eight (48) month limit, the IRS limit referenced in Subsection 705.05, or any other statutory limitation, including the limitation in Section 59-1342(6), Idaho Code. (3-20-20)

628. TREATMENT OF PURCHASE OF SERVICE CONTRIBUTIONS.
Contributions made for purposes of purchasing service, and interest earnings thereon, are not considered for purposes of determining death benefits under Section 59-1361(3), Idaho Code, and distributions under Section 59-1309(5), Idaho Code. When determining death benefits under Section 59-1361(3), Idaho Code, first calculate two hundred percent (200%) of accumulated contributions, excluding contributions and interest related to purchased service, then add member contributions and interest related to purchased service. Member contributions and interest will also be included in any separation benefit. In no event shall employer contributions for purchased service be included in any separation benefit or lump-sum death benefit. (3-20-20)

629. EMPLOYER PARTICIPATION.
State agency, political subdivision or government entity participation must be in the form of lump-sum payments at the time of retirement. In the event a state agency, political subdivision or government entity makes a contribution on behalf of a member and a distribution other than periodic payments occurs prior to the actual retirement effective date, the state agency, political subdivision or government entity may claim a credit against future contributions equal to the amount of the contribution. State agency, political subdivision or government entity contributions must be accompanied by or preceded by a written statement endorsed by the governing body or officer of the state agency, political subdivision or government entity verifying that the participation is properly authorized and that the state agency, political subdivision or government entity indemnifies PERSI against any loss resulting from failure of the state agency, political subdivision or government entity, or any person acting on its behalf, to act within its authority. (3-20-20)

630. ADDITIONAL LIMITS ON PURCHASED SERVICE.
The Internal Revenue Code imposes limits on the amount of retirement benefits that can be paid to a retiree under a defined benefit plan. Benefits acquired through purchase of service are subject to these limits for some purposes. In no event can a member purchase service that would result in the member exceeding the limits imposed in Section 415(n)(1)(A) of the IRS Code. In addition, a member's initial retirement benefit, including purchased service, continues to be subject to the limitation in Section 59-1342(6), Idaho Code. (3-20-20)

631. -- 649. (RESERVED)

SUBCHAPTER G – PERSI GAIN SHARING RULES
Rules 650 through 755

650. EXISTENCE OF EXTRAORDINARY GAINS.
The existence of extraordinary gains triggers the possibility that allocations will be made as provided in Section 59-1309, Idaho Code. However, the existence of extraordinary gains does not obligate the retirement board to make an allocation. The Board may choose not to allocate extraordinary gains, or it may choose to allocate all or part of the extraordinary gains. Extraordinary gains exist when, at the close of the fiscal year, the value of plan assets exceeds plan liabilities as determined by the actuary, plus a sum necessary to absorb a one (1) standard deviation market event without increasing contribution rates, as determined by the Board. The amount of extraordinary gains available for possible distribution equals the amount by which the assets exceed the sum of the liabilities and the one standard deviation. (3-20-20)

651. VALUE OF PLAN ASSETS.
This is the total assets held in the PERSI base plan, as reported in the actuarial valuation at the end of the fiscal year. (3-20-20)

652. PLAN LIABILITIES.
This is the actuarial liability of the PERSI base plan, including but not limited to, the cost of the proposed COLA to be effective in March following the close of the fiscal year, the cost of any benefit enhancements to the base plan approved by the legislature, and the cost of actuarial gains and losses, as reported in the actuarial valuation for the fiscal year. (3-20-20)

653. ONE STANDARD DEVIATION.
This is the amount of reserve necessary to absorb normal market fluctuations and is a function of the risk associated with investment holdings and strategies, and will be determined by the Board based on those factors. (3-20-20)

654. BOARD DISCRETION.
The Board retains full discretion in determining whether to allocate extraordinary gains when they exist. Because of the broad range of factors that might be relevant to such a determination, and to assure that the Board will not be limited in exercising its discretion, these rules do not attempt to identify any of the factors that might be considered in the Board's fiduciary capacity. When extraordinary gains exist, the Board will decide whether they will be allocated no later than the first day of December following the end of the fiscal year. Such decision shall be in writing and shall constitute an amendment to the plan document for purposes of the Internal Revenue Code of 1986, as amended, or any successor thereto. In the absence of any such decision, the allocation for that year shall be zero (0.00). (3-20-20)

655. -- 674. (RESERVED)

675. ALLOCATION BETWEEN GROUPS.
If extraordinary gains exist, and the Board determines that all or part of such gains should be allocated, an allocation will be made among the three (3) groups identified by Section 59-1309, Idaho Code. The three (3) groups and allocations are: (3-20-20)

a. Active PERSI members - 38 percent (38%); (3-20-20)

b. PERSI retirees - twelve percent (12%); and (3-20-20)

c. PERSI employers - fifty percent (50%) (3-20-20)

676. -- 699. (RESERVED)

700. ACTIVE MEMBER ALLOCATION.
After the amount to be allocated to the active member group has been determined, it shall be allocated among the members of the group. The active member allocation determines each member's initial share before considering any applicable individual limits. Each member's initial share shall be determined by dividing that member's accumulated contributions in the base plan at the close of the fiscal year by the total accumulated contributions in the base plan of all members of the group at the close of the fiscal year, multiplied by the amount allocated to the active member group. In no event shall a member's initial share, before considering individual limits, exceed the maximum annual contribution limit under Section 415(c) of the IRS Code applicable for the limitation year. (3-20-20)

701. MINIMUM ALLOCATION AMOUNT.
Due to the costs associated with maintaining individual choice accounts, no allocation shall be made to any member whose allocation share does not exceed thirty-eight dollars ($38) after considering individual limits, unless the member had a PERSI choice account on the last day of the fiscal year and has not withdrawn funds before the allocation date. (3-20-20)

702. ACTIVE MEMBER.
A member participates in the active member allocation only if he is an active member as defined in this subchapter. Whenever a member is placed on leave of absence under circumstances making that member eligible for benefits under USERRA, the employer shall notify PERSI in writing within thirty (30) days and attach a copy of the member's orders. (3-20-20)

703. ACCUMULATED CONTRIBUTIONS.
For purposes of allocating extraordinary gains within the active member group, accumulated contributions do not include contributions or interest related to the purchase of permissive service credits or contributions or interest in the Choice Plan or accounts. (3-20-20)

704. TRANSFER TO DEFINED CONTRIBUTION CHOICE ACCOUNTS.
After each member's initial share has been determined, it will be transferred to an individual account as permitted under Section 414(k) of the IRS Code, subject to individual limits imposed by the Internal Revenue Code. The Board may transfer allocations anytime after necessary compensation data is received and processed by the Board. (3-20-20)

705. LIMITATIONS ON ALLOCATION.
In no event shall a member's final allocation exceed the limits imposed by Section 415(c) of the IRS Code, based on compensation earned during the calendar year that included the end of the fiscal year. (3-20-20)

706. INTERVENING RETIREMENT.
When a member is included in the active member pool but retires prior to the transfer of allocations, the member's allocation will be made as a one-time payment directly to the member rather than a transfer to an individual account. Such allocations will not be limited by Section 705 but will be subject to the limitations of Section 729. (3-20-20)

707. INTERVENING WITHDRAWAL OF CONTRIBUTIONS.
When a member is included in the active member pool but terminates prior to the transfer of allocations, the allocation will be made to the member's individual account if the member has not withdrawn contributions from the Base account prior to the date of transfer of the allocation. No member who has withdrawn contributions from the Base account prior to the transfer of the allocation is eligible to receive an allocation. (3-20-20)

708. INTERVENING DEATH OF ACTIVE MEMBER.
When a member would have been included in the active member allocation but dies prior to the transfer of allocations, no allocation shall be made to the member, beneficiary or estate except that an optional death benefit recipient will receive the active member's allocation as limited by Section 729. (3-20-20)

709. TREATMENT OF GAIN SHARING ALLOCATIONS IN THE CHOICE ACCOUNT.
Gain sharing allocations transferred to individual Choice Accounts have no effect on an individual's Base Plan benefit. Gain sharing allocations, and the earnings thereon, will be accounted for separately from other Choice Plan contributions but will be treated as one plan for purposes of reporting, investing, distributions, and fees to the extent they are applicable. Related provisions of the Plan adopted by the Board to facilitate voluntary and employer contributions are applicable to gain sharing allocations to the extent not inconsistent with these rules and Sections 59-1308 and 59-1309, Idaho Code. However, no loans or hardship withdrawals may be taken against gain sharing account balances. (3-20-20)

710. -- 724. (RESERVED)

725. RETIREE ALLOCATION.
After the amount to be allocated to the retiree group has been determined, it shall be allocated among the members of the group. The retiree allocation determines each member's share before considering any applicable individual limits. Each member's initial share shall be determined by dividing that retiree's monthly benefit at the close of the fiscal year by the total monthly benefits payable to all members of the group at the close of the fiscal year, multiplied by the amount allocated to the retiree group. (3-20-20)

726. RETIREE.
For purposes of allocating extraordinary gains, a member must be a retiree as defined in this subchapter. (3-20-20)

727. MONTHLY BENEFIT.
This is the monthly benefit for the last month of the fiscal year but does not include benefits related to other months that may also have been paid during the last month of the fiscal year. In no event shall a retiree's share be determined based on more than the retiree's annual benefit, not including any gain sharing allocations, divided by twelve (12). (3-20-20)

728. PAYMENT OF ALLOCATION.
After each retiree's initial share has been determined, it will be paid no later than February 1 following the close of the fiscal year directly to the retiree either together with the retiree's monthly benefit or separately, subject to individual limits imposed by the Internal Revenue Code. (3-20-20)

729. LIMITATIONS ON ALLOCATION.
Prior to allocation, a retiree's initial share shall be further limited as necessary to comply with the limits of Section 415(b) of the IRS Code. (3-20-20)

730. INTERVENING DEATH OF A RETIREE.
When a retiree is included in the retiree allocation but dies prior to the transfer of allocations, no allocation shall be made unless benefit payments are continuing to be made to a contingent annuitant. (3-20-20)

731. INTERVENING REEMPLOYMENT.
When a retiree is included in the retiree allocation but becomes reemployed as defined in Section 59-1356, Idaho Code, prior to the date of distribution, the retiree allocation shall be made in the form of an active member allocation, and shall be subject to active member limitations. (3-20-20)

732. NEGATED RETIREMENT.

Gain sharing allocations received by a retiree are not included in the amounts required to be repaid when negating retirement under Section 541. (3-20-20)

733. -- 749. (RESERVED)

750. EMPLOYER ALLOCATION.
After the amount to be allocated to the employer group has been determined, it shall be allocated among the members of the group. Each employer's share shall be determined by dividing that employer's contribution liability for the fiscal year by the total contribution liability for all members of the group for the fiscal year, multiplied by the amount allocated to the employer group. (3-20-20)

751. EMPLOYER.
Participation in the employer pool is limited to those entities defined as an employer in this subchapter. (3-20-20)

752. CONTRIBUTION LIABILITY.
This includes only employer contributions that are accrued during the fiscal year and required to be paid by Section 59-1322, Idaho Code, unreduced by gain sharing credits. It does not include contributions made to fund sick leave pools, to pay costs of other plans such as the Firefighters Retirement Fund, or to contributions required by Sections 33-107A and 33-107B, Idaho Code. Only adjustments related to fiscal year contributions will be considered. (3-20-20)

753. CREDIT OF ALLOCATION.
After each employer's share has been determined, it will be credited against the employer's future contribution invoices. The credits shall be applied only to offset future employee and employer contributions required to be remitted by Section 59-1325(1), Idaho Code, until the credit is exhausted. An employer may elect to use the credits solely against employer contributions to the extent that no carry-over credits (as described in Section 754) result. (3-20-20)

754. CARRY-OVER OF CREDIT.
Should the credit exceed the employer's contribution invoices for the succeeding twelve (12) month period, any remaining credits will carry over to the following year together with an additional credit representing an interest payment. The interest credit shall equal the balance of remaining credits multiplied by a ratio representing the regular rate of interest. This process shall be repeated annually until all credits have been used. (3-20-20)

755. WITHDRAWAL OF EMPLOYER.
When an employer is included in the employer pool but withdraws from the system as provided in Section 59-1326, Idaho Code, prior to allocation of credits, the employer shall not be entitled to receive any credits. When an employer is entitled to carry-over credits but withdraws prior to using all its credits, it shall not be entitled to additional credits based on interest payments. (3-20-20)

756. -- 999. (RESERVED)

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