

**SUBJECT:**

Board Governing Policies and Procedures, Section II. Personnel

**BACKGROUND:**

The Board has maintained both policies and rules in the area of Personnel for some time. This legislative session, the Board successfully requested that the administrative rules on Personnel be repealed, thus allowing the Board to govern personnel matters by policy rather than rule. The repeal of these rules is effective on July 1, 2001.

Repeal of the Board's personnel rules results in the need to combine provisions in rule with policy provisions, and provides a prime opportunity to review and revise the personnel policies completely. As was intended in repealing the rules and per discussions with the Board, the revisions are focusing on three objectives, (1) converting all rules and policies into one document, (2) increasing delegation to the chief executive officers at the institutions and agencies while requiring more accountability and reporting, and (3) streamlining the existing procedures without substantially changing employee benefits.

Staff met with the delegates from the affected institutions and agencies to develop the proposed revisions. There was some interest from the Board entities in making additional changes in the areas of accrued annual leave, nonrenewal of nonclassified employees, and sick leave, along with possibly adding sections on early retirement, litigation and violence in the workplace. It was decided that these other sorts of major changes that add or take away current employee benefits or that introduce new concepts were beyond the scope of the current project and should be dealt with separately. Additionally, the subsections on the Retirement Program and Staff Reduction Procedures were transferred from rule almost verbatim and will likely need to be reworked in the near future.

**DISCUSSION:**

The biggest change from the old provisions to the new is that overall authority for personnel is delegated to the chief executive officers, except where specifically reserved by the Board. Previous policy provided that only areas specifically delegated by the Board were the responsibility of the chief executive officers.

The first reading policy document is presented as it will read. (Full text copies of the Board's existing Personnel Policies and Rules will be made available upon request, and can also be found on the Board's website.) Because the order of subsections was reclassified and reorganized, including existing text from the rules and policies and indicating where changes were made with stricken and underlined text would have been extremely cumbersome and difficult to read. Thus, staff has attached two documents in an effort to indicate the major changes that occur in the proposed revision.

**TABLE 1:** Summary of Board Approval Requirements – Outlines areas where Board approval is currently required and how it will or will not be changed in the proposed revision.

**TABLE 2:** Summary of Major Revisions – Outlines some of the major revisions, by subsection, other than those listed in Table 1.

Although the revision is essentially a new version of the Board's Personnel Policies, with the exception of the overall change in Board delegation, a majority of the provisions outlined in current policy remain, they are just organized in new way in an attempt to make the policy more user friendly.

**IMPACT:**

Delegating more authority in the area of personnel matters to the institution/agency heads will free up time on the Board agenda that was otherwise spent on routine personnel items. The Board remains as the final authority for all personnel related matters, except that the Board will not be required to hear appeals unless it so chooses.

**TABLE 1**

**SUMMARY OF BOARD APPROVAL REQUIREMENTS  
FROM CURRENT PERSONNEL POLICIES/RULES TO PROPOSED REVISION**

<b>CURRENT PERSONNEL POLICIES</b>	<b>PROPOSED PERSONNEL POLICIES</b>
Establishment of new positions and initial salaries	Still requires Board approval
Position appointments	Only those appointments to positions with salaries at or higher than salary threshold set by the Board require Board approval. All other appointments delegated to the chief executive officer. A list of appointments to positions at the level of dean, assistant vice president, or higher must be reported to the Board quarterly. A list of employees appointed to any type of nonclassified position must be reported to the Board quarterly.
Promotions for exempt employees	Delegated to the chief executive officer
All salary changes	Delegated to the chief executive. A listing of any salary changes in excess of 20% or \$15,000 must be reported to the Board quarterly
Senior administrator salaries that exceed the CUPA median for such position	Still requires Board approval
Dismissal of employees for adequate cause	Delegated to the chief executive officer
Nonrenewal of employment contract	Delegated to the chief executive officer
Layoff as a result of financial exigency	Still requires Board approval
Criteria for faculty rank and promotion and exceptions to the criteria	Still requires Board approval
All faculty promotions using approved criteria	Delegated to the president
Procedures established for periodic review of tenure	Still requires Board approval
<ul style="list-style-type: none"> <li>- Granting of tenure</li> <li>- Transfer of tenure from one department to another</li> <li>- Granting of tenure to an individual hired in an academic administrative position</li> <li>- Tenure review committee</li> </ul>	Delegated to the president. A listing of all faculty members receiving tenure must be reported to the Board quarterly
Waiver of conditions on sabbatical leave	Delegated to the president
Employment agreements for head coaches and athletic directors	Still requires Board approval
Internal procedures for grievance and appeals	Requires review by executive director and maintenance on file in OSBE
Designation of a holiday different from those outlined in Board policy	Requires notification to the executive director

**TABLE 2: SUMMARY OF MAJOR REVISIONS**

CURRENT PERSONNEL POLICIES	PROPOSED PERSONNEL POLICIES
<p align="center"><b>Authority and Scope</b></p> <p>Board is employer for 5 institutions, IDPTE, IDVR, IPTV, ISDB, OSBE, and SDE</p> <p>Gives chief executive officers personnel authority only as delegated by the Board</p> <p>Allows board entities to establish additional personnel policies and procedures</p> <p>Board policies apply if conflict with any internal policies</p> <p>Board retains authority for taking final action on any matter</p>	
	<p>Board is employer for all except SDE, designates the superintendent as the authority for the SDE in accordance with Idaho Code.</p> <p>Delegates primary responsibility for personnel management to the chief executive officers, except in areas specifically reserved to the Board</p> <p>Same allowance, but requires that any additional personnel policies be submitted to the executive director for review and maintenance on file</p> <p>no change from current</p> <p>no change from current</p>
<p align="center"><b>Appointment Authority and Procedures</b></p> <p>Board approval required for appointment of any new position; reauthorization of any position; actual position appointments; etc.</p> <p>All appointments forwarded to the Board at the earliest possible time following the appointment for review and action</p> <p>Agenda format for new positions requires position title, type of position, FTE, term of appointment, effective date, salary range, funding source, area of assignment, and description of duties</p>	
	<p>Requires Board approval of new positions only</p> <p>Appointments at or above a Board designated salary level are forwarded to the Board for approval</p> <p>Still requires all this, but adds also justification for the position</p>
<p align="center"><b>Reporting and Accountability</b></p> <p>Not in previous policy or rules</p>	
	<p>Provides the Board or executive director may require personnel reports as so desired</p> <p>Outlines standing reports to the Board, including one on October annually, numerous quarterly reports, and leaves space for Board to list standing annual reports</p>
<p align="center"><b>Categories of Employees</b></p> <p>Student employee definition provided for in policy</p>	
	<p>Definition of student employee revised to reflect definition in state law</p>
<p align="center"><b>Policies regarding Classified Employees</b></p> <p>Provided that UI classified employees subject to same rules as state classified employees</p>	
	<p>Allows the UI to establish internal policies for classified employees, to be parallel to state requirements in so much as practical</p>

<b>Policies regarding Nonclassified Employees</b>	
Nonclassified employees designated as “exempt	Nonclassified employees designated as “nonclassified”
Rules required Board approval for nonrenewal of these employees	Delegates to the chief executive officers discretion for nonrenewal
Provides if employee alleges nonrenewal is based on illegally permissible reason, said employee may use the internal grievance procedures	Employee may now use internal <u>illegal discrimination</u> grievance procedures
<b>Policies Regarding Faculty (Institutions Only)</b>	
Faculty employees differentiated by institutional faculty and school faculty	Faculty employees differentiated by professional-technical and academic and school faculty
Provides for four primary faculty ranks at each institution	Provides for same four primary ranks, but excludes professional-technical faculty from this provision
Promotion recommendations must be submitted to the executive director for approval	Delegated to the presidents
Provides for periodic performance review of tenured faculty members	Same provisions for this, with addition of new provision that allows, if certain criteria are met, that consideration for tenure or post tenure review may be postponed and combined with consideration for promotion in rank
Sabbatical allowable for all faculty	Sabbatical allowable only for tenured and professional-technical faculty
<b>Policies Regarding Coaches and Athletic Directors (Institutions Only)</b>	
Provides for 1-5 year contracts for coaches or athletic directors, and includes incentives for academic performance be part of the contract. Contracts require Board approval.	Same as current provision, with added requirement to use the Board approved model contract as the form for establishing contracts and provides that the contract comprises the entire employer-employee relationship.
<b>Leaves – all employees</b>	
Provisions for the use of sick leave, disability leave and military leave detailed in policy, some of which conflict with provisions of law	Removal of most detail replaced with a provision that use of sick leave, disability leave and military leave shall be used in accordance with state and federal law
<b>Other Benefits – all employees</b>	
Provided for in policy	No change to current provisions
<b>Retirement Program – All Employees</b>	
Provided for in rule previously	Transferred to policy language with no major changes. Suggested revisions will be forwarded after adopted into policy.

<b>Discipline – Adequate Cause – All Employees</b>	
Rules provided for dismissal for adequate cause	Provide for <u>discipline, up to and including dismissal</u> for adequate cause
Provides detailed internal hearing and appeal procedures for the institutions, agencies, etc. and the Board in cases of employee termination. Board must hear appeals if filed in accordance with procedures.	Provides the Board may hear an appeal at its discretion. Simplifies the internal hearing and appeal procedures, but retains major aspects, i.e., right to be heard, adequate notice and statement of reasons, etc.
<b>Grievance and Appeal Procedures – All Employees</b>	
Required Board approval of internally established procedures for grievances and appeals	Requires review by the executive director and maintenance on file in OSBE
<b>Staff Reduction Procedures</b>	
Provided for in rule previously	Transferred to policy language with no major changes. Suggested revisions will be forwarded after adopted into policy.
<b>Search Guidelines</b>	
Provided for in policy	Same as current provisions, with addition of provision for release of final candidates names to the public following board approval
<b>General Policies &amp; Procedures – All employees</b>	
Required applications for vacant positions be retained for at least one year	Removes this requirement  Includes information from several subsections previously in policy, including nondiscrimination policy, equal employment opportunity, sexual harassment policy, drug education guidelines (may eventually be transferred to postsecondary affairs), personnel files, and other miscellaneous policies and procedures. Previous policy section on AIDS guidelines has been removed as not in compliance with current law.
<b>Conflict of Interest and Ethical Conduct – All employees</b>	
Not in previous personnel policies or rules, but some provisions were included in the intellectual property and conflict of interest rules.	New section addresses general principles of ethical conduct, conflict of interest and consideration of transactions

## **Idaho State Board of Education**

# **GOVERNING POLICIES AND PROCEDURES**

**SECTION: II. PERSONNEL POLICIES AND PROCEDURES**

**Subsection: A. Authority and Scope**

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## **II. Personnel Policies and Procedures**

### **A. Authority and Scope**

The State Board of Education and the Board of Regents of the University of Idaho (the Board) is designated by the Idaho Constitution and Code as the employer for the institutions (Boise State University, Idaho State University, Lewis-Clark State College, University of Idaho, and Eastern Idaho Technical College), agencies (Division of Professional-Technical Education, Division of Vocational Rehabilitation, Idaho Educational Public Broadcasting System), school (Idaho School for the Deaf and the Blind) and office (Office of the State Board of Education) under its governance.

All employees at the institutions, agencies, school and office are governed by these personnel policies and procedures. The employees of the State Department of Education are subject to Section 33-127, Idaho Code, which authorizes the state superintendent of public instruction to hire and dismiss employees of the State Department of Education.

The primary responsibility for personnel management is delegated to the chief executive officers by the Board. The Board establishes these general personnel policies and procedures as an integral part of efficient and effective personnel management. The institutions, agencies, school, and office may establish additional policies and procedures necessary for the management of personnel which further amplify and are consistent with the Governing Policies and Procedures of the Board. Such policies and procedures as established by the institutions, agencies and school shall be submitted to the executive director on July 1 annually, who shall review them for consistency and maintain them on file at the office of the state board of education.

Any personnel policies and procedures created by the chief executive officers must be described in the context of the respective purposes and missions of the various entities under the governance of the Board. It shall be the responsibility of each chief executive officer to ensure that all employees under their supervision have access to such policies and procedures and that a copy of such procedures is on file at the Office of the State Board of Education. If there is a conflict between a Board governing policy or procedure and an institutional or agency policy or procedure, the provisions of these Governing Policies and Procedures will apply and control.

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**SECTION: II. PERSONNEL POLICIES AND PROCEDURES**

**Subsection: B. Appointment Authority and Procedures**

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**B. Appointment Authority and Procedures**

1. Nothing herein may be construed to be in limitation of the powers of the Board as defined by Sections 33-3006, 33-3104, 33-2806, and 33-4005, Idaho Code, or as otherwise defined in the Idaho constitution or code.

**2. Delegation of Authority**

The Board delegates all authority for personnel management not specifically retained to the executive director and the chief executive officers consistent with the personnel policies and procedures adopted by the Board. In fulfilling this responsibility, the executive director and chief executive officers, or their designees, may exercise their authority consistent with these policies and procedures. Provided, however, that the Board retains the authority for taking final action on any matter so identified anywhere in these policies and procedures.

**3. Specifically Reserved Board Authority**

(Note: This is not an exclusive or exhaustive list and other reservations of Board authority may be found in other areas of these policies and procedures.) Board approval is required for the following:

**a. Position Authorizations**

- (1) Any permanent new position, regardless of funding source, requires Board approval prior to any form or manner of recruitment of applicants.
- (2) If another position is being deleted or reallocated, the affected position should be identified by type, title, salary, area or department of assignment, funding source, and a brief explanation of the modification of position duties and responsibilities.

Agenda Item Format: Requests for new position authorizations or position reauthorizations must include the following information:

- (a) position title;
- (b) type of position;
- (c) FTE
- (d) Term of appointment;
- (e) Effective date;
- (f) approximate salary range;
- (g) funding source;
- (h) area or department of assignment;



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- (i) a description of the duties and responsibilities of the position; and
  - (j) a complete justification for the position
- b. The appointment of all employees to any type of position at a salary that is equal to or higher than the salary designated annually by the Board for this purpose.
- c. The employment agreement of any head coach or athletic director (at the institutions only), and all amendments thereto.
- d. The criteria established by the institutions for initial appointment to faculty rank and for promotion in rank, as well as any additional faculty ranks and criteria as may be established by an institution other than those provided for in these policies (see subsection G.) Any exceptions to the approved criteria also require Board approval.
- e. The procedures established for periodic performance review of tenured faculty members. (see subsection G.)

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**Subsection: C. Reporting and Accountability**

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**C. Reporting and Accountability**

1. The Board, in entrusting its vested personnel authority to the chief executive officers, expects compliance with these policies and procedures and with the directives and orders of the Board. To ensure this, the Board requires complete accountability from the chief executive officers.
2. The Board may, at any time, require reports or schedules of any and all personnel actions delegated to the chief executive officers.

The executive director is hereby delegated the full authority to call for, at any time, any such reports or schedules that the Board itself could require.

3. All reports and schedules shall be uniform and in the form and content as directed by the Board or, in the absence of Board specifications, as prescribed by the executive director.
4. In addition to any reports or schedules requested by the Board, the following schedules and reports shall be standing directives to the chief executive officers:
  - a. In October of each year, a report of the supplemental or additional compensation (or payment of bonuses or contractual incentive pay) made to athletic department personnel (at the institutions only) in the preceding year, and including anticipated costs in the ensuing year.
  - b. A quarterly report of all items listed below, which should include, the name of the appointee, position to which appointed, area or department of assignment, salary and effective date of appointment, and any other information as prescribed by the executive director:
    - (1) a list of those employees granted or paid any compensation or benefit, in any form, other than those expressly provided for in these policies.
    - (2) a list of those employees receiving an increase in salary in excess of twenty percent (20%) or greater than \$15,000.
    - (3) a list of those employees appointed to positions at the level of dean or assistant vice president or higher, or who report directly to the chief executive officer, not otherwise reported or requiring Board approval.
    - (4) a list of employees appointed to any type of nonclassified position, not otherwise reported or requiring prior Board approval.
    - (5) a list of payments to employees in addition to their regular salaries.

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**Subsection: C. Reporting and Accountability**

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- (5) a list of faculty members that were granted tenure.
  - (6) a list of employees granted a change in faculty rank.
  - (7) a list of employees granted professional leave or sabbatical leave with or without compensation.
- c. An annual report that includes the following:

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**Subsection: D. Categories of Employees – General Definitions**

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**D. Categories of Employees – General Definitions**

**1. Classified Employee**

"Classified employee" means any person appointed to or holding a position at an institution, agency, school or office whose position is subject to the provisions of the merit examination, selection, retention, promotion, and dismissal requirements of the Idaho Division of Human Resources as provided under Chapter 53, Title 67, Idaho Code, or the policies and procedures of the University of Idaho for classified employees.

**a. Classified Employees -- Idaho Division of Human Resources**

Appointments, employment status, personnel actions, and primary employment benefits concerning classified employees of the Board must be administered in accordance with the rules and regulations established by the Idaho Division of Human Resources.

**b. Classified Employees -- University of Idaho**

Classified employees at the University of Idaho are subject to the policies and procedures of the University of Idaho for its classified employees. Such policies and procedures require approval by the Board, and should be, in so much as practical, parallel to the provisions provided for state of Idaho classified employees in Chapter 53, Title 67, Idaho Code.

**2. Non Classified Employees**

"Non Classified employee" means any person appointed to or holding a non-faculty position at an institution, agency, school, or office in a position designated by the Board as non-classified and thus is not subject to the provisions of Chapter 53, Title 67, Idaho Code or the policies and procedures of the University of Idaho for its classified employees. The Board's designation of a position or employee as exempt constitutes any designation necessary under Idaho law to designate such position or employee as non-classified.

**a. The Board's executive director and the chief executive officers of the institutions, agencies, and school are appointed by the Board and serve at the pleasure of the Board, and may therefore be dismissed at any time, with or without cause, and without notice.**

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- b. As used in these personnel policies, the term “chief executive officer” shall mean the following, with reference to the appropriate entity:
  - (1) Institutions – the president
  - (2) Idaho School for the Deaf and Blind – the superintendent
  - (3) Office of the State Board of Education – the executive director
  - (4) The Division of Vocational Rehabilitation – the administrator
  - (5) The Division of Professional-Technical Education – the administrator
  - (6) Idaho Educational Public Broadcasting System – general manager

### **3. Faculty Employees**

#### **a. Institutional Faculty**

- (1) "Academic faculty" means all employees who hold the rank of instructor/lecturer or a higher academic rank in an academic department at the University of Idaho, Idaho State University, Boise State University, or Lewis-Clark State College,
- (2) “Professional-Technical faculty” means all employees who hold the rank of instructor in any of the five area professional-technical colleges or Eastern Idaho Technical College.

References to “institutional faculty” or “faculty” in these policies include both academic and professional-technical faculty. Institutional faculty are generally subject to all of the same policies and procedures unless one group is specifically addressed or exempted.

#### **b. School Faculty**

"School faculty" means employees holding instructional or instructional support appointments at the State School for the Deaf and the Blind. School faculty are subject to the laws and rules of Idaho regarding certified teachers and are not considered “faculty” in these policies and procedures as are institutional faculty with regard to faculty rights and benefits (i.e. tenure, sabbatical, etc.).

### **4. Temporary or Special Nonclassified Employees**

- a. This category includes (1) employees who are appointed to positions that are either temporary or special and who generally meet specific position requirements for (a) grants or contracts of specified duration or (b) part-time teaching or other responsibilities, and (2) employees who are appointed to fulfill the responsibilities of continuing positions on an emergency or temporary basis.

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b. Student Employees

A student enrolled in an undergraduate, graduate, or professional-technical program at and employed by a state college, university, community college or professional-technical center when such employment is predicated on student status.

- 5. Head Coaches and Athletic Directors (Institutions Only)** – Serve pursuant to contracts of employment as set forth in these policies and procedures.

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**Subsection: E. Policies Regarding Classified Employees**

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**E. Policies Regarding Classified Employees**

**1. Personnel Action Form**

All employees of the Board who are subject to the Idaho classified personnel system or who are University of Idaho classified employees are appointed pursuant to a personnel action form. The rights of these employees to continuous employment, if any, are governed by Chapter 53, Title 67, Idaho Code, the rules of the Idaho Division of Human Resources and these policies where applicable, or with regard to the University of Idaho classified employees, by the policies of the University of Idaho and these policies.

**2. Compensation**

Compensation for classified employees shall be in accordance with Chapter 53, Title 67, Idaho Code. Compensation for University of Idaho classified employees shall be in accordance with the policies of the University of Idaho and these policies.

Automobile Exclusion. No classified or University of Idaho classified employee will receive an automobile or automobile allowance as part of his/her compensation.

**3. Annual Leave**

Classified and University of Idaho classified employees earn annual leave according to § 67-5334 and are subject to the maximum leave accruals in § 67-5335(2).

**4. Performance Evaluation**

Evaluation of classified employees must be as provided for in Chapter 53, Title 67, Idaho Code, and rules of the Division Human Resources. Evaluation of University of Idaho classified employees must be as provided for by the policies and procedures of the University of Idaho and these policies.

**5. Termination or Dismissal**

- a. Dismissal of classified employees shall be as provided for in Chapter 53, Title 67, Idaho Code, and rules of the State Division of Human Resources.
- b. The University of Idaho must establish a written procedure for dismissal or termination of classified employees for adequate cause, in accordance with provisions provided in these policies, and which shall include, at a minimum, an internal opportunity to contest the reasons for dismissal or termination with the individual responsible for making the recommendation of dismissal or termination to the chief

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executive officer. This opportunity need not be in the nature of a grievance hearing but shall afford the employee notice of the reasons for termination or dismissal, the evidence supporting the decision, and an opportunity to present reasons and evidence.

- 6. All other provisions** regarding classified employees shall be governed by the laws and rules of the Idaho Division of Human Resources or, in the case of University of Idaho classified employees, by the policies and procedures of the University of Idaho and these policies.



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**F. Policies Regarding Nonclassified Employees**

**1. Employment Contract**

- a. All nonclassified employees serve pursuant to an employment contract. The employment contract must include the period of the appointment, salary, pay periods, position title, employment status and such other materials as the agency, institution, school or office may elect to include in order to define the primary elements of the contract of employment. Nonclassified employees have no continued expectation of employment beyond their current existing contract of employment. Each employee must acknowledge receipt and acceptance of the terms of the employment contract by signing and returning a copy to the agency, institution, school or office initiating the offer of appointment. Failure or refusal of the employee to sign and return a copy of the employment contract within the time specified in the contract is deemed rejection of the offer of employment unless the parties have mutually agreed to extend the time. Nothing in this paragraph prohibits the agency, institution, school or office from extending another offer to the employee in the event the initial offer was not signed and returned in a timely manner. Any alteration by the employee of the offer is deemed a counter-offer requiring an affirmative act of acceptance by an officer authorized to enter into contracts of employment binding the agency, institution, school or office. Each contract of employment must include a statement to the following effect and intent: "The terms of employment set forth in this contract of employment are also subject to the Governing Policies and Procedures of the State Board of Education, and the policies and procedures of (the institution, agency, school or office)."
- b. Term of employment - All nonclassified employees have fixed terms of employment. No contract of employment with such an employee may exceed one (1) year without the prior express approval of the Board. Employment beyond the contract period may not be legally presumed. Renewal of an employment contract is subject solely to the discretion of the chief executive officer of the agency, institution, school or office, and, where applicable, of the Board.

**2. Compensation**

- a. Salary – All nonclassified employees shall receive a fixed annual salary. Payment in addition to the fixed salary may be authorized by the chief executive officer and reported to the Board. All initial salaries for nonclassified employees are established by the chief executive officer, subject to approval by the Board where applicable. The Board may make subsequent changes for any nonclassified employee positions or may set annual salary guidelines and delegates to its executive director authority to review compliance with its annual guidelines. Any annual salary increase outside

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- Board guidelines requires specific and prior Board approval before such increase may be effective or paid to the nonclassified employee. With the exception of the chief executive officers, and other positions whose appointment is a reserved Board authority, approval of salaries shall be effective concurrently with Board approval of annual operating budgets for that fiscal year.
- b. For purposes of categorizing nonclassified employees for salary and reporting purposes, the following definitions apply:
- (1) Executive/Administrative includes all persons whose assignments require primary (and major) responsibility for management of the institution, or a customarily recognized department or subdivision thereof. Assignments require the performance of work directly related to management policies or general business operations of the institutional department or subdivision. It is assumed that assignments in this category customarily and regularly require incumbents to exercise discretion and independent judgment and to direct the work of others. This category includes all officers holding such titles as president, vice president, dean, director, or equivalent, as well as officers subordinate to any of these administrators with such titles as associate dean, executive officer, academic department heads, or equivalent if their principal activity is administrative. Supervisors of professional employees are included.
  - (2) Managerial/Professional includes persons employed for the primary purpose of performing academic support, student service, and institutional support activities, and whose assignments would require either college graduation or experience of such kind and amount as to provide a comparable background. Include employees such as librarians, accountants, , counselors, system analysts, coaches, lawyers, and pharmacists, for example. (Supervisors of nonprofessional employees -- technical, clerical, craft, and service/maintenance -- are to be reported within the specific categories of the personnel they supervise.)
- c. Salaries, Salary Increases and other Compensation related items
- (1) Salaries for new appointments to dean, associate/assistant dean, vice president, and president/vice president direct-report positions may not exceed the median rate for such position established by the College and University Professional Association for Human Resources CUPA or its equivalent) without prior Board approval.
  - (2) Appointments to acting or interim positions shall be at base salary rates no greater than ten percent (10%) more than the appointees' salary rate immediately prior to accepting the interim appointment or ninety-five percent (95%) of the prior incumbent's rate, whichever is greater.

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- (3) Overtime Compensation - Nonclassified employees earning annual leave at the equivalent rate of two (2) days for each month or major fraction thereof of credited state service are not eligible for either cash compensation or compensatory time off for overtime work. Nonclassified employees in positions that are defined as “non-exempt” under the Fair Labor Standards Act earn overtime at a rate of one and one-half (1½) hours for each overtime hour worked. Other nonclassified employees may earn compensatory time off at the discretion of the chief executive officer at a rate not to exceed one (1) hour of compensatory time for each hour of overtime worked.
- (4) Credited State Service - The basis for earning credited state service will be the actual hours paid not to exceed forty (40) per week.
- (5) Pay Periods. All nonclassified employees are paid in accordance with a schedule established by the state controller.
- (6) Automobile Exclusion. Unless expressly authorized by Board policy, no nonclassified employee will receive an automobile or automobile allowance as part of his or her compensation.

#### **3. Annual Leave**

- a. Nonclassified employees at the institutions, agencies, school, and office earn annual leave at the equivalent rate of two (2) days per month or major fraction thereof of credited state service. Twelve-month employees employed at the entities named above may accrue leave up to a maximum of 240 hours. An employee who has accrued the maximum will not be credited with any further leave until the employee's use of annual leave reduces the accrual below the maximum.

Nonclassified employees in positions which are “non-exempt” under the Fair Labor Standards Act earn annual leave according to § 67-5334 and are subject to the maximum leave accruals in § 67-5335(2).

- b. Nonclassified employees appointed to less than full-time positions earn annual leave on a proportional basis dependent upon the terms and conditions of employment.
- c. Professional Leave - At the discretion of the chief executive officer, nonclassified employees may be granted professional leave with or without compensation under conditions and terms as established by the chief executive officer

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**4. Performance Evaluation**

- a. Each institution, agency, school, and office must establish policies and procedures for the performance evaluation of nonclassified employees, and are responsible for implementing those policies in evaluating the work performance of employees. The purposes of employee evaluations are to identify areas of strength and weakness, to improve employee work performance, and to provide a basis on which the chief executive officers and the Board may make decisions concerning retention, promotion, and merit salary increases. All nonclassified employees must be evaluated annually. Any written recommendations that result from a performance evaluation must be signed by the appropriate supervisor, a copy provided to the employee and a copy placed in the official personnel file of the employee.

**5. Non-Renewal of Nonclassified Employees**

- a. Notice of the decision of the chief executive officer to nonrenew a contract of employment must be given in writing to the nonclassified employee at least sixty (60) calendar days before the end of the existing period of appointment. Reasons for nonrenewal need not be stated. Nonrenewal without cause is the legal right of the Board. If any reasons for nonrenewal are provided to the employee for information, it does not convert the nonrenewal to dismissal for cause and does not establish or shift any burden of proof. Failure to give timely notice of nonrenewal because of mechanical, clerical, mailing, or similar error is not deemed to renew the contract of employment for another full term, but the existing term of employment must be extended to the number of days necessary to allow sixty (60) calendar days notice to the employee.
- b. As a general rule, nonrenewal is not grievable within the agency, institution, school or office nor is it appealable to the Board. If an employee presents bona fide allegations and evidence in writing to the chief executive officer of the agency, institution, school or office that the nonrenewal of the contract of employment was the result of illegal discrimination, the employee is entitled to use the internal illegal discrimination grievance procedure to test the allegation. The normal internal grievance procedure for illegal discrimination must be used unless changed by mutual consent of the parties. The ultimate burden of proof rests with the employee. The agency, institution, school or office is required to offer evidence of its reasons for nonrenewal only if the employee has made a prima facie showing that the recommendation of nonrenewal was made for legally impermissible reasons. Unless mutually agreed to by the parties in writing, the use of the illegal discrimination grievance procedure will not delay the effective date of nonrenewal. Following the illegal discrimination procedures, if any, the decision of the agency, institution, school, or office is final.

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- c. The nonclassified employee may petition the Board to review the final action of the agency, institution, school or office. Any petition for review must be filed at the Office of the State Board of Education within fifteen (15) calendar days after the employee receives notice of final action. The Board may agree to review the final action, setting out whatever procedure and conditions for review it deems appropriate, or it may choose not to review the final action. The fact that a review petition has been filed will not stay the effectiveness of the final action, nor will the grant of a petition for review, unless specifically provided by the Board. Board review is not a matter of right. An employee need not petition for Board review in order to have exhausted administrative remedies for purposes of judicial review.

**6. Tenure**

Nonclassified employees are generally not entitled to tenure. Certain, very limited, exceptions to this general rule are found in Subsection G.6 of these personnel policies and procedures.

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**G. Policies Regarding Faculty (Institutional Faculty Only)**

**1. Letters of Employment**

- a. All faculty employees serve pursuant to employment contracts. The employment contract must include the period of the appointment, salary, pay periods, position title, employment status and such other materials as the institution may elect to include in order to define the primary elements of the contract of employment. Nontenured faculty employees have no continued expectation of employment beyond their current existing contract of employment. Each faculty employee must acknowledge receipt and acceptance of the terms of the employment contract by signing and returning a copy to the institution initiating the offer of appointment. Failure or refusal of the faculty employee to sign and return a copy of the employment contract within the time specified in the contract is deemed rejection of the offer of employment unless the parties have mutually agreed to extend the time. Nothing in this paragraph prohibits the institution from extending another offer to the employee in the event the initial offer was not signed and returned in a timely manner. Any alteration by the employee of the offer is deemed a counter-offer requiring an affirmative act of acceptance by an officer authorized to enter into contracts of employment binding the institution. Each contract of employment must include a statement to the following effect and intent: "The terms of employment set forth in this letter (contract) of employment are also subject to the Governing Policies and Procedures of the State Board of Education, and the policies and procedures of (the institution)."
- b. Term of Appointment - All nontenured faculty employees have fixed terms of employment. No contract of employment with such an employee may exceed one (1) year without the prior approval of the Board. Employment beyond the contract period may not be legally presumed. Reappointment of a faculty employment contract is subject solely to the discretion of the chief executive officer of the institution, and, where applicable, of the Board.
- c. Faculty Rank and Promotion (excludes professional-technical faculty)
  - (1) Primary Faculty Ranks and Location - There are four (4) primary faculty ranks at each institution: (a) professor, (b) associate professor, (c) assistant professor, and (d) instructor/lecturer. Each institution may establish additional faculty ranks, specify the title of each rank, and delineate the requirements for each faculty rank so established. Recommendations for additional faculty ranks must be submitted by the chief executive officer to the Board for approval.

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- (2) Faculty rank, including initial appointment to faculty rank and any promotion to a higher rank at an institution, is located in a department or equivalent unit.
- (3) Criteria for Faculty Rank and Promotion - Each institution must establish criteria for initial appointment to faculty rank and for promotion in rank at the institution. Such criteria must be submitted to the Board for approval, and upon approval must be published and made available to the faculty.
- (4) Exceptions Persons who have made substantial contributions to their fields of specialization or who have demonstrated exceptional scholarship and competence or appropriate creative accomplishment of recognized outstanding quality may be appointed to faculty rank without satisfying established institutional criteria for initial appointment or promotion, provided that the qualifications of such individuals have been reviewed in accordance with institutional procedures and the appointment is recommended by the chief executive officer and approved by the Board.
- (5) Rank for nonclassified Employees – A nonclassified employee may hold faculty rank in a department or equivalent unit in which rank has previously been established by the institution. A nonclassified employee may be granted rank at the time of appointment or subsequent thereto, or may be promoted in rank, if such employee meets the criteria for rank as established by the institution and approved by the Board.

## **2. Compensation**

### **a. Salary and Hourly Wages**

All initial salaries for faculty employees are established by the chief executive officer, subject to approval by the Board where applicable. Payment in addition to regular salaries must be authorized by the chief executive officer and reported to the Board. The Board may make subsequent changes for faculty employee positions or may set annual salary guidelines and delegate to its executive director authority to review compliance with its annual guidelines. Any annual salary increase outside Board guidelines requires specific and prior Board approval before such increase may be effective and paid to the employee. With the exception of the chief executive officers, and other positions whose appointment is a reserved Board Authority, approval of salaries shall be effective concurrently with Board approval of annual operating budgets for that fiscal year.

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b. Salaries, Increases and other Compensation related items

- (1) For purposes of categorizing faculty employees for salary and reporting purposes, the following definition applies: Faculty includes all persons whose specific assignments customarily are made for the purpose of conducting instruction, research, or public service as a principal activity (or activities), and who hold academic rank-titles of professor, associate professor, assistant professor, instructor, lecturer, or the equivalent of any of these academic ranks. Report in this category deans, directors, or the equivalents, as well as associate deans, assistant deans, and executive officers of academic departments (chairpersons, heads, or the equivalent) if their principal activity is instructional. Do not include student teaching or research assistants or medical interns or residents. (For Idaho reporting purposes, report deans, associate deans, and assistant deans as executive/administrative.)
- (3) Credited State Service - A faculty member employed for an academic year and paid over a twelve-month period will be credited with twelve (12) months of state service.
- (4) Pay Periods - All faculty employees, including those on academic-year appointments, are paid in accordance with a schedule established by the state controller.
- (5) Automobile Exclusion - Unless expressly authorized by Board policy, no faculty employee will receive an automobile or automobile allowance as part of his/her compensation.

### **3. Annual Leave**

- a. Only faculty members serving twelve (12) month appointments earn annual leave. Such annual leave shall be earned in the same manner as for nonclassified employees.

b. Sabbatical Leave

(1) Eligibility

A sabbatical leave may be granted at the discretion of the chief executive officer to a tenured faculty member or a professional-technical faculty member who has completed at least six (6) years of full-time service at an institution. A sabbatical leave may not be awarded to the same faculty member more than once in any six (6) academic years and sabbatical leave time is not cumulative. Sabbatical leave proposals must be submitted, reviewed, and processed according to policies and procedures established at each institution. A sabbatical leave may be used for the



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purpose of acquiring new professional skills and updating professional skills or conducting research. Sabbatical leave awards are fully dependent on the availability of appropriate funding.

#### **(2) Term**

The term of a sabbatical leave is either one (1) academic semester at full pay or two (2) semesters at half pay.

#### **(3) Condition**

Each faculty member who is granted a sabbatical leave must serve at the institution for at least one (1) academic year after completion of the sabbatical unless the chief executive officer approves a waiver of the requirement.

#### **(4) Report on Sabbatical Leave**

By the end of the first semester following return to the institution from a sabbatical leave, the faculty member must submit a written account of sabbatical activities and accomplishments to the academic vice president.

#### **(5) Report to the Board**

The chief executive officer must report the names of tenured faculty members awarded sabbatical leaves and a brief statement of the purposes of each sabbatical in their quarterly report to the Board

### **4. Performance Evaluation**

- a. Annual Evaluation - Each year the chairman of a department must submit to the dean of the chairman's college an evaluation of each faculty member in the department. This evaluation, together with the opinion of higher administrators, will be used as one (1) basis for the final recommendation relative to reappointment, nonreappointment, acquisition of tenure, or other personnel action, whichever is appropriate. The chairman must communicate an assessment of strengths and weaknesses to each faculty member evaluated.
- b. Evaluation Criteria - Evaluation of faculty should be made in terms of the individual's potential effectiveness as a member of the local educational community. Each institution shall publish its criteria for annual evaluation and ensure that all members of the faculty have access to the criteria.

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- c. Any written recommendations that result from evaluation of a faculty employee will be given to the employee and a copy will be placed in the employee's file.
- d. Each institution must develop policies, procedures, and measurement instruments to be used in the evaluation by students of faculty teaching effectiveness. Student evaluations shall not be considered as personnel records of the faculty member.

#### **5. Nonrenewal of Nontenured Faculty Members**

- a. Notice of nonrenewal or termination must be given in writing in letter form and in accordance with the following standards:
  - (1) First Year Of Service - Not later than March 1 of the first full academic year of service if the appointment is not to be renewed at the end of the academic year; or if a one-year appointment terminates during an academic year and is not to be renewed, at least three (3) months in advance of its termination.
  - (2) Second Year Of Service - Not later than December 15 of the second full academic year of service if the appointment is not to be renewed at the end of the academic year; or, if the appointment terminates during an academic year and is not to be renewed, at least six (6) months in advance of its termination.
  - (3) Three (3) Or More Years Of Service – Not later than July 15 of the full academic year of service if the appointment is not to be renewed at the end of the academic year; or, if the appointment terminates during an academic year and is not to be renewed, at least twelve (12) months in advance of its termination.
  - (4) Failure to provide timely notice of nonrenewal because of mechanical, clerical, or mailing error does not extend or renew the letter or contract of employment for another term, but the existing term of employment will be extended to provide the employee with a timely notice of nonrenewal.
  - (5) Financial Exigency. Notice of nonrenewal is not required when the Board has authorized a reduction in force resulting from a declaration of financial exigency and a nontenured faculty member is to be laid off. In that event, notice of layoff must be given as provided under the policies for reduction in force.
- b. Request For Review
  - (1) Nonrenewal is not subject to investigation or review except that the employee may request an investigation or review to establish that written notice was or was not received in accordance with the time requirements set forth in this section. In such cases, the investigation or review will be concerned only with manner and

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date of notification of nonrenewal and will not consider grounds for nonrenewal. The employee must request such investigation or review in writing of the chief executive officer within fifteen (15) days of receipt of the written notice of nonrenewal.

- (2) Provided, however, that if the non-tenured faculty member presents bona fide allegations and evidence in writing to the chief executive officer of the institution that the non-reappointment was the result of illegal discrimination, the non-tenured faculty member is entitled to use the internal illegal discrimination grievance procedure to test the allegation. In such cases, the same procedures, burden of proof, time limits etc. as set forth for the grievance of non-renewal by nonclassified employees shall be used. (see subsection F.)
- c. Nontenured faculty members who are notified that they will not be reappointed or that the succeeding academic year will be the terminal year of appointment are not entitled to a statement of reasons upon which the decision for such action is based. No hearing to review such a decision will be held.

#### **6. Tenure**

- a. Tenure Defined - Tenure is a condition of presumed continuous employment following the expiration of a probationary period and after meeting the appropriate criteria. After tenure has been awarded, the faculty member's service may be terminated only for adequate cause; except in the case of retirement or financial exigency as declared by the Board; in situations where extreme shifts of enrollment have eliminated the justification for a position; or where the Board has authorized elimination or substantial reduction in a program. Tenure status is available only to full-time institutional faculty members, as defined by institution. All faculty appointments are subject to the approvals as required in Board policy. Nontenured members of the faculty are appointed to term appointments pursuant to subsection G1. Any commitment to employ a nontenured member of the faculty beyond the period of his or her current term of appointment is wholly ineffective.
- b. Acquisition Of Tenure
  - (1) Professional-Technical Faculty hired under the division of professional-technical education prior to July 1, 1993 who were granted tenure may retain tenure in accordance with these policies. Individuals hired under the division of professional-technical education subsequent to July 1, 1993 are hired and employed as nontenure track faculty and will:

- (a) be afforded the right to pursue promotion; and

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- (b) be considered and granted an employment contract in accordance with these policies and be subject to continued acceptable performance and/or the needs of the institution; and
  - (c) be afforded an opportunity to serve on institutional committees.
- (2) Academic faculty members, after meeting certain requirements, may acquire tenure. Acquisition of tenure is not automatic, by default or defacto, but requires an explicit judgment, decision, and approval. A faculty member will usually be evaluated for the acquisition of tenure after at least five (5) full years of service and in no case later than during the faculty member's seventh (7<sup>th</sup>) full academic year of employment at the institution.
- c. Notification - An individual eligible for tenure must be informed, by proffered written contract, of appointment or nonappointment to tenure not later than June 30 of the academic year during which the decision is made. In case of nonappointment to tenure, the faculty member must be given a letter of notice of nonreappointment.
- d. Standards of Eligibility for Tenure
  - (1) Annual Appointments - Until the acquisition of tenure, all appointments are made for a period not to exceed one (1) year. Prior to the award of tenure, employment beyond the annual term of appointment may not be legally presumed.
  - (2) Service In Professorial Rank - All satisfactory service in any professorial rank may be used to fulfill the time requirement for acquiring tenure. Each institution must develop criteria and rules by which prior service may be evaluated for inclusion in experience necessary for acquiring tenure.
  - (3) Service In Instructor Rank - A maximum of two (2) years satisfactory service in the rank of instructor at the institution will be allowed in partial fulfillment of the time requirement in the professorial ranks. Faculty members who hold the rank of senior instructor are eligible for tenure status, as herein provided, even though they teach in fields that have established professorial ranks.
  - (4) Exceptional Cases - Tenure may be awarded prior to completion of the usual probationary period in certain exceptional cases. Prior to attaining tenure status, the burden of proving worth rests with the individual.
- e. Evaluation For Tenure - It is expected that the chief executive officer making the recommendation for tenure will have sought and considered evaluations of each candidate by a committee appointed for the purpose of annual evaluations or tenure status. Such committee must consist of tenured and nontenured members of the department, if available; equitable student representation; and one (1) or more

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representatives from outside the department. Each member of the committee has an equal vote on all matters. The committee must give proper credence and weight to collective student evaluations of faculty members, as evidenced by an auditing procedure approved by the chief executive officer. The recommendation of the committee will be forwarded in writing through appropriate channels, along with written recommendations of the department chairperson or unit head, dean, and appropriate vice president, to the chief executive officer, who is responsible for making the final decision

- f. Award Of Tenure - The awarding of tenure to an eligible faculty member is made only by a positive action of the president of the institution. The president must give notice in writing to the faculty member of the approval or denial of tenure. Notwithstanding any provisions in these policies to the contrary, no person will be deemed to have been awarded tenure because notice is not given
- g. Periodic Performance Review of Tenured Faculty Members - It is the policy of the Board that at intervals not to exceed five (5) years following the award of tenure to faculty members, the performance of tenured faculty must be reviewed by members of the department or unit and the department chairperson or unit head. The review must be conducted in terms of the tenured faculty member's continuing performance in the following general categories: teaching effectiveness, research or creative activities, professional related services, other assigned responsibilities, and overall contributions to the department.
  - (1) Procedures for periodic review - Each institution must establish procedures for the performance review of tenured faculty members at the institution. Such procedures are subject to the review and action of the Board. Each year the academic vice president or designee is responsible for designating in writing those tenured faculty members whose performance is subject to review during the year.
  - (2) Review standards - If during the periodic review, the performance of a tenured faculty member is questioned in writing by a majority of members of the department or unit, the department chairperson or unit head, the appropriate dean, the appropriate vice president, or the chief executive officer, then the appropriate vice president or equivalent administrator must decide whether a full and complete review must be conducted in accordance with the procedures established for the initial evaluation for tenure at the institution. If during the periodic review, the performance of a tenured faculty member is not questioned in writing as described in the preceding paragraph, members of the department or unit and the department chairperson or unit head must prepare a written review statement that the performance review has been conducted and that a full and complete review is not required.

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- (3) Exception for Associate Professors in the Promotion Process - Generally, the promotion from the rank of associate professor to full professor is considered no earlier than the fifth full year after attaining the rank of associate professor, which is generally contemporaneous with the granting of tenure. In such cases, if review for promotion to full professor is scheduled during the fifth full year after the award of tenure, but no later than the seventh full year after the award of tenure, then the promotion review may, if it meets substantially similar criteria and goals of the post tenure review, take the place of the periodic performance review described here.
- (4) Termination of employment - If, following a full and complete review, a tenured faculty member's performance is judged to have been unsatisfactory or less than adequate during the period under review, the chief executive officer may initiate termination of employment procedures for the faculty member. In other words, an unsatisfactory or less than adequate performance rating shall constitute adequate cause for dismissal.
- h. Dismissal for Adequate Cause - Tenured faculty members may be dismissed for adequate cause as provided for in Subsection L of this Section.
- i. Tenure for Nonclassified Employees
  - (1) "Academic administrative position," for purposes of this topic, means the chief academic officers of the Office of the State Board of Education and the institutions and the deans and department chairs and their associates/assistants of the academic units of the institutions, and shall not include persons occupying other administrative positions.
  - (2) An employee with tenure in an academic department or equivalent unit who is appointed to an administrative position retains tenure in that department or equivalent unit and may not be transferred to another except on approval by the institution's president.
  - (3) An individual hired for or promoted to an academic administrative nonclassified position may be considered for a tenured faculty rank in the appropriate department or equivalent unit. Such consideration is contingent upon approval by the institution's president.
  - (4) Upon termination of employment in an academic administrative nonclassified position, an employee with tenure may, at his or her option, return to employment

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in the department or equivalent unit in which he or she holds tenure unless such employee resigns, retires, or is terminated for adequate cause.

- (5) An individual hired for a non-academic administrative nonclassified position from outside the institution will not be considered for tenured faculty rank in conjunction with such appointment. However, he or she may be granted an adjunct faculty appointment, upon the recommendation of the appropriate department and dean and with the approval of the provost or chief academic officer and president, if the individual will teach and otherwise contribute to that department.
- (6) Notwithstanding the above, each administrative nonclassified employee who is granted tenure shall be reviewed in the same manner as tenured faculty to determine whether he or she shall retain tenure. Upon a determination by the president that such qualifications are lacking, the employee must relinquish tenure.
- j. Terminal Contract of Employment - If a faculty member is not awarded tenure, the chief executive officer must notify the faculty member of the decision not to recommend tenure and may, at his or her discretion, either issue to the faculty member a contract for a terminal year of employment, or, at the sole discretion of the chief executive officer, issue to the faculty member contracts of employment for successive periods of one (1) year each. Such appointment for faculty members not awarded tenure must be on an annual basis, and such temporary appointments do not vest in the faculty member any of the rights inherent in tenure and there shall be no continued expectation of employment beyond the annual appointment.
- k. When authorized by the chief executive officer, or his or her designee, the year in which the tenure decision is made may be the terminal year of employment.
- l. Effect of lapse in service, transfer, reassignment, reorganization, and administrative responsibilities.
  - (1) The prior service in the institution of a nontenured faculty member holding academic rank who has left the institution and is subsequently reappointed after a lapse of not more than three (3) years may be counted toward eligibility for the award of tenure, except that the faculty member may be required to serve additional years before being reviewed for tenure status. Eligibility for the award of tenure must be clarified in writing before reappointment. A tenured faculty member who has left the institution and is subsequently reappointed after a lapse of not more than three (3) years must have tenure status clarified in writing by the president or his designee before appointment. The faculty member may be

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reappointed with tenure, or may be required to serve additional years before being reviewed for tenure status.

- (2) Before a nontenured faculty member holding academic rank is moved from one position in the institution to another, the member must be informed in writing by the academic vice president, after consultation with the receiving department, as to the extent to which prior service may count toward eligibility for tenure status.
- (3) No faculty member's tenure in a discipline may be adversely affected by the reorganization of the administrative structure. A faculty member's tenure is not affected by reassignment of administrative responsibilities.
- (4) When a tenured faculty member is serving as department chairman, college dean, or in some other administrative or service capacity, retention of membership, academic rank, and tenure in the subject-matter department or similar unit is maintained. Should the administrative or service responsibilities terminate, the member takes up regular duties in the discipline within which membership, academic rank, and tenure was retained.



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**H. Policies Regarding Coaching Personnel and Athletic Directors (Institution Employees Only)**

The chief executive officer of an institution is authorized to enter into a contract for the services of a head coach or athletic director with that institution for a term of more than one (1) year, but not more than five (5) years, subject to approval by the Board as to the terms, conditions, and compensation thereunder, and subject further to the condition that the contract of employment carries terms and conditions of future obligations of the coach or athletic director to the institution for the performance of such contracts. Each contract for the services shall follow the general form approved by the Board as a model contract. Such contract shall constitute the entire employer-employee relationship between the Board and the coach or athletic director.

Each contract for a head coach shall include incentives, separate from any other incentives, based upon the academic performance of the student athletes whom the coach supervises. The chief executive officer of the institution shall determine such incentives. Each institution's recommendation for the renewal of a contract for the services of a head coach shall include a report to the Board of the coach's performance relative to the academic incentives of the coach's prior contract period.

Automobile Exclusion - Unless expressly authorized by Board policy, no employee will receive an automobile or automobile allowance as part of his or her compensation. Provided, however, that automobiles supplied to the athletic department of an institution, at no cost to the institution, for use by head coaches and other athletic department employees shall be an exception to this exclusion.

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**I. Leaves – All Employees**

**1. Annual Leave**

For all categories of employees, annual leave shall be as set forth in the respective Subsection outlining policies for that category of employee (i.e., classified, nonclassified, faculty, etc.)

**2. Sick Leave**

a. All employees accrue sick leave as provided for in Chapter 53, Title 67, Idaho Code, and rules of the Idaho Division of Human Resources, and shall be used in accordance with State Law and internal institution, agency, school or office policies.

b. At the employee's option, annual leave may be used in lieu of sick leave.

c. Funeral Leave

(1) Sick leave with pay of up to five (5) days per occurrence will be granted an employee for the purpose of attending a funeral or memorial service for a deceased member of the employee's immediate family or close relative. Days used for funeral leave reduce the employee's accrued annual leave, if available, when the sick leave is exhausted. Additional sick leave beyond the five (5) days may be granted at the discretion of the chief executive officer.

(2) For purposes of this section, "immediate family" means the employee's spouse, parent, step-parent, guardian, brother, sister, mother-in-law, father-in-law, child, or stepchild. "Close relative" means the employee's grandmother, grandfather, aunt, uncle, niece, nephew, brother-in-law, sister-in-law, first cousin, or grandchild.

**3. Disability Leave: Workers' Compensation**

Disability Leave shall be in accordance with applicable State and Federal Law.

**4. Holidays**

A holiday is a day of exemption from work granted to employees and for which they are compensated as if they had actually worked.

a. The following holidays are recognized by statute:

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- January 1 (New Year's Day)
  - Third Monday in January (Martin Luther King, Jr. Day/Human Rights Day)
  - Third Monday in February (Presidents' Day)
  - Last Monday in May (Memorial Day or Decoration Day)
  - July 4 (Independence Day)
  - First Monday in September (Labor Day)
  - Second Monday in October (Columbus Day)
  - November 11 (Veterans Day)
  - Fourth Thursday in November (Thanksgiving)
  - December 25 (Christmas)
- b. In addition, any day may be designated by the President of the United States or the Governor of Idaho for a public fast, Thanksgiving, or holiday.
  - c. In the event that a holiday occurs on a Saturday, the preceding Friday is recognized as a holiday. If a holiday falls on a Sunday, the following Monday is recognized as a holiday.
  - d. If a chief executive officer desires to designate a holiday that is different from those specified above, the chief executive officer must notify the executive director

### **6. Leave for Court-Required Service**

- a. An employee who is summoned for jury duty or subpoenaed as a witness before a court of competent jurisdiction or as a witness in a proceeding before any federal or state administrative agency will be granted leave with pay and any jury or witness fees may be retained by the employee.
- b. An employee must request annual leave or leave without compensation for:
  - (1) appearing as a party in a non-job-related proceeding involving the employee;
  - (2) appearing as an expert witness when the employee is compensated for such appearance; or
  - (3) appearing as a plaintiff or complainant, or as counsel for a plaintiff or complainant, in a proceeding in which the Board or any of its institutions, agencies, school, or office is a defendant or respondent.

### **7. Military Leave**

Leave for the purpose of military service shall be in accordance with applicable State and Federal Law.

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**8. Leave Without Compensation**

- a. Any employee may apply for a leave without compensation. A leave without compensation is granted at the discretion of the chief executive officer. The initial grant of a leave without compensation may be for a period of up to one (1) calendar year. Extensions of such a leave for one (1) year at a time may be granted by the chief executive officer not to exceed a total of three (3) successive calendar years.

- b. Leave for Serving as a Member of the Idaho Legislature

It is the Board's intent that state salary not be duplicated to an employee serving in the Legislature. Therefore, an employee of an institution, agency, school, or office who is elected or appointed to the Idaho State Legislature must be placed on leave without compensation during such time as the Legislature is in session.

- c. Benefits While on Leave Without Compensation

An employee who has received approval from the chief executive officer for a leave without compensation may continue to contribute toward and receive the benefits of any state or institutional insurance and retirement programs, if the laws, rules, regulations, policies, and procedures governing the administration of such insurance and retirement programs permit.

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**Subsection: J. Other Benefits – All Employees**

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**J. Other Benefits – All Employees**

Employees are eligible for health or other insurance programs established by the State of Idaho (or by the University of Idaho for its employees), for unemployment compensation as provided by the Employment Security Law of Idaho, workers compensation, disability and for such additional benefits as may be established by any institution, agency, school or office for its employees subject to prior approval by the Board.

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**SECTION: II. PERSONNEL POLICIES AND PROCEDURES**

**Subsection: K. Retirement Programs – All Employees**

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**K. Retirement Programs – All Employees**

**1. Classified Employees**

All classified and University of Idaho classified employees shall participate in the Public Employee Retirement System of Idaho (PERSI)

**2. Optional Retirement Program**

Pursuant to Sections 33-107A and 33-107B, Idaho Code, the State Board of Education is authorized to establish a retirement program under which contracts providing retirement and death benefits may be purchased for members of the faculty and nonclassified staff of the University of Idaho, Idaho State University, Boise State University, Lewis-Clark State College, Eastern Idaho Technical College and the Office of the State Board of Education. The State Board of Education provides for the administration of the Optional Retirement Program in accordance with the Idaho State Board of Education Optional Retirement Plan (hereinafter “the Plan”), a copy of which is on file at the Office of the State Board of Education and at the institutions mentioned above. The Plan may be amended from time to time in accordance with its terms and applicable regulations of the Internal Revenue Service.

- a. Designation Of Contract Providers - The Board shall designated companies from which contracts are to be purchased under the optional retirement program.
- b. Eligible Employees - Eligible employees are those active faculty and nonclassified employees initially hired or appointed on or after July 1, 1990, but shall exclude employees who are vested members of the public employees retirement system of Idaho prior to appointment to the faculty or nonclassified staff. Eligible employees shall participate in the Optional Retirement Program. “Eligible employees” shall exclude classified employees, employees whose employment is expected to be less than five (5) months, and employees whose employment is incidental to their status as students at the institution. .

Faculty and nonclassified staff hired before July 1, 1990, may make a one-time irrevocable election to remain in PERSI. The election must be made upon appointment.

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### **L. Discipline - Adequate Cause – All Employees**

#### **1. Discipline for Adequate Cause**

- a. All University of Idaho classified employees, all nonclassified employees, and all faculty employees of the Board or of the agencies, institutions, school, or office under its jurisdiction are subject to discipline, up to and including dismissal, during the period of employment, for adequate cause. Classified employees are subject to discipline up to and including dismissal for all causes as provided for in Chapter 53, Title 67 Idaho Code and the rules of the State Division of Human Resources.
- b. “Adequate cause” means one (1) or more acts or omissions which, singly or in the aggregate, have directly and substantially affected or impaired an employee’s performance of his professional or assigned duties or the best interests of the institution, agency, school, or office. In addition, any conduct seriously prejudicial to an institution, agency, school or office may constitute adequate cause for discipline, up to and including dismissal, of any employee. Examples include, but are not limited to, immorality, criminality, dishonesty, unprofessional conduct, actions in violation of policies, directives, or orders of the Board, unsatisfactory or less than adequate performance of his assigned or contractual duties, or failure to perform his assigned or contractual duties.
  - (1) Violation of Sections 33-3715 and 33-3716, Idaho Code, or violation of any law which results in a felony conviction of an employee may be adequate cause for discipline, up to and including dismissal, from the institution, agency, school, or office. It is not necessary that such violations be committed on the campus of one (1) of the institutions of the state of Idaho unless the same is a material element of such violation.
  - (2) If, without the approval of the chief executive officer, an employee for reasons other than illness or institutional business, fails to meet his teaching commitments or other assigned duties, such failure also constitutes adequate cause for discipline, up to and including dismissal.

#### **2. Procedures**

In each case the issue of whether or not adequate cause exists should be determined fairly by the institution, agency, school, or office recognizing and affording protection to the rights of the employee and to the interests of the Board and its institutions, agencies, school, or office.

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- a. Dismissal of employees before the expiration of the stated period of appointment or employment will be only for adequate cause shown, as determined by the appropriate administrative officers to whom this responsibility is delegated by the chief executive officer of the institution and who shall make a recommendation to the chief executive officer for such dismissal. Each institution, agency, school or office shall have a process that grants employees notice of intent to recommend dismissal and an opportunity to be heard. The employee may be suspended with pay until he shall have exercised the opportunity to respond and the recommendation has been acted upon by the chief executive officer.

The chief executive officer must notify the employee of the recommendation and proceed in the following manner:

- (1) The notice from the chief executive officer must be in writing, and may be personally served upon said employee, or be sent by certified mail, to the address on file for said employee.
- (2) The notice must contain a concise statement of the reasons for dismissal
- b. Upon receipt of the final findings and recommendations from the chief executive officer, an employee may file an appeal with the Board. The Board may, if it chooses to hear an appeal, by a majority of the total membership, approve, reject, or amend such findings, recommendations, or suggestions, if any, or may remand the report for additional evidence, recommendations, or suggestions, if any. Reasons for approval, rejection, or amendment of such findings, recommendations, or suggestions will be stated in writing and communicated to the employee.
- c. If, under extraordinary circumstances, the Board itself initiates dismissal proceedings against an employee, it must, by majority vote, direct the chief executive officer or any other administrator as may be appropriate to follow procedures for removal of said employee.



## **M. Grievance and Appeal Procedure – All Employees**

### **1. Internal Policies and Procedures**

Each institution, agency, school, and office must establish general procedures to provide for grievances and appeals for personnel matters not addressed specifically in these policies and procedures. Such procedures shall be forwarded to the executive director for review and maintenance on file in the office of the state board of education. Internal procedures must include the following elements:

- a. provision for informal resolution;
- b. procedures for filing a formal, written complaint;
- c. reasonable time requirements;
- d. a description of the hearing body; and
- e. requirements for retention of records.

Provisions for classified employees are provided for in Chapter 53, Title 67 Idaho Code. The University of Idaho shall, to the extent practical, provide for similar grievance and appeals procedures for its classified employees.

### **2. Appeal to the Board**

An employee may elect to petition the Board to review any final personnel related decision of the chief executive officer. Any written petition must be filed in the Office of the State Board of Education within fifteen (15) calendar days after the employee receives written notice of final action under the internal procedures of the institution, agency, school, or office. The Board may agree to review the final action, setting out whatever procedure and conditions for review it deems appropriate, or it may choose not to review the final action. The fact that a written petition has been filed does not stay the effectiveness of the final decision nor does it grant a petition for review unless specifically provided by the Board. Board review is not a matter of right. An employee need not petition the Board for review in order to have exhausted administrative remedies for the purposes of judicial review.

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**Subsection: N. Staff Reduction Procedures – All Employees**

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**N. Staff Reduction Procedures – All Employees**

**1. Financial Exigency**

The Board recognizes that in order to discharge its responsibilities for the agencies, institutions, school, or office under its governance, it may become necessary to curtail, modify, or eliminate some of the programs of the agencies, institutions, school, or office due to unfavorable economic conditions. The Board further recognizes that it must dedicate its resources to the achievement of the purposes and goals of its agencies, institutions, school, and office. As used here, “financial exigency” means a demonstrably bona fide, financial crisis which adversely affects an agency, institution, school, or office as a whole, or one (1) or more programs, or other distinct units. A state of financial exigency exists only upon Board declaration.

**2. Staff Reduction Procedures**

- a. The Board must take action by written resolution setting forth the basis for its decision to implement a staff reduction, after notice and hearing, at a regular or special meeting of the Board.
- b. An employee may be laid off as a result of financial exigency.
- c. A reduction in force must be done equitably, in good faith, and in a systematic manner directly related to the financial exigency.
- d. After active consultation with the employees, including faculty, professional staffs, and classified personnel, the chief executive officer of each agency, institution, school, or office must prepare and recommend to the Board a program consisting of various alternatives to implement staff reduction procedures. When developing this program, consideration must be given to the necessity and manner of reducing the employment force, the appropriate unit or subunit to be reduced in force, and the criteria for identifying the employees who are to be laid off. The Board must consider and approve a program to implement its decision prior to the effective date of any layoffs.
- e. Each of the institutions may establish a committee, which may include representatives of the administration, faculty, staff or students, to advise the chief executive officer on the need for declaring a state of financial exigency and possible remedies therefore.

**3. Application for Reduction in Force**

A reduction in force may occur in the following manner and may be the same or may differ from one (1) agency, institution, school, or office to another:

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- a. By entire entity, scope or across an entire agency, institution, school, or office; or
- b. By subunit within an agency, institution, school, or office, such as a college, school, academic department, administrative department, division, office, bureau, discipline, or specialty within a discipline; or
- c. by any combination of the aforementioned.

### **4. Classified Employees**

- a. State of Idaho Classified Employees

Any reduction in force affecting Board employees subject to the Idaho classified personnel system will be made pursuant the Rules of the Division of Human Resources. The reduction in force will be made by organizational unit.

- b. University of Idaho Classified Employees

The rules of the Division of Human Resources must be used to differentiate among University of Idaho classified employees within the unit or subunit being reduced in force, provided, however, that employees do not have a right of appeal to the Board.

### **5. Staff Reduction Criteria**

In making any staff reduction recommendation to the Board, the chief executive officer must utilize as the first criterion the preservation of the quality and effectiveness of the programs of the agency, institution, school, or office. Consequently, those employees who are deemed to be of key importance to the specific program will be retained in preference to other employees, whatever their status. Programs, for the purposes of the subsection, include, but are not limited to, academic, non-instructional, maintenance, administrative, and other support areas. Other criteria that must be considered include but are not limited to tenure, rank, time in rank, length of service, field of specialization, maintenance of necessary programs or services, maintenance of affirmative action programs, and quality of service and work.

### **6. Form of Notice**

The Board recognizes that any layoff may be a severe economic and personal loss to an employee. Therefore, and within the time frame provided in this policy, the agency, institution, school, or office chief executive officer must give notice in writing to employees who are affected by a reduction in force, which notice must include the effective date of the layoff; a statement of the reasons for the Board's action to declare a financial exigency; the basis, the procedures, and the criteria used to lay off an employee; any opportunity for

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reconsideration or appeal, including access to appropriate documentation, and the issues that may and may not be considered; and the reinstatement rights of the employee.

### **7. Time of Notice**

Each agency, institution, school, or office must make every effort to give as much notice as is practical in light of the financial exigency to each employee in advance of the effective date of the layoff. Yet, the legislative appropriation process and the subsequent analysis needed before the Board declares a condition of financial exigency and receives, considers, and approves implementing programs may allow little time for official notice of layoff. The active consultation with its employees that the Board requires of each agency, institution, school, or office should give to each employee as much actual, informal notice of impending action as is humanly possible under the circumstances. However, the Board is also aware that under some circumstances the decision to declare a condition of financial exigency is based on estimated revenues, rather than on actual revenues. Because of this the Board encourages the longest time of notice possible under the circumstances to any employee who is to be laid off. However, the Board can and does bind each agency, institution, school, or office under its governance to the following minimum written notice of layoff:

- a. Classified Employees (State and UI) - Not less than sixty (60) calendar days before the effective date of the layoff.
- b. Nonclassified Contract Employees And Nontenured Faculty - Not less than sixty (60) calendar days before the effective date of the layoff.
- c. Tenured Faculty - To tenured faculty members occupying faculty positions, a notice of layoff with the effective date of layoff being one (1) full semester after the semester in which exigency is declared. An individual institution may, at its option, allow up to a full year's notice.
- d. Pleasure Of The Board Employees - To employees serving at the pleasure of the Board, thirty (30) calendar days before the effective date of the layoff.

### **8. Appeal Rights**

- a. Classified Employees

A layoff of employees subject to the Idaho classified personnel system and University of Idaho classified employees is a grievable matter, but unless otherwise required by law or regulation, the grievance procedure does not delay the effective date of the layoff. The decision of the chief executive officer of the agency, institution, school, or office is final and not appealable to the Board. In the event that such appeal or grievance procedures

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do not currently exist, each agency, institution, school, or office must establish such procedures.

**b. Non Faculty, Nonclassified Employees**

(1) Contract Employees - In most instances, a reduction in force of employees serving under a contract of employment for a fixed term will be accomplished by nonrenewal of the contract of employment rather than by layoff during the term of employment. Nonrenewal under these circumstances is not appealable at the agency, institution, school, or office, nor is it appealable to the Board. In the event an employee serving under a contract of employment for a fixed term is laid off during the term of employment, that employee is entitled to use the appeal procedure of the agency, institution, school, or office. For this purpose, each agency, institution, school, or office, must establish its own appeal or grievance procedure in the event such procedure does not currently exist. The employee must notify the chief executive officer, in writing, within fifteen (15) days of receipt of the notice of layoff, of his intent to use the internal appeal procedure. The decision of the chief executive officer of the agency, institution, school, or office following the appeal procedure is final and not appealable to the Board. Use of the appeal procedure does not delay the effective date of the layoff.

(2) Pleasure Of The Board Employees - Notwithstanding the provisions of the prior paragraph, termination of employees serving at the pleasure of the Board pursuant to any other provision of the Board's policies and procedures in furtherance of a reduction in force is not appealable.

**c. Tenured and Non Tenured Faculty**

(1) Nontenured Faculty. Nontenured faculty members occupying permanent faculty positions who are laid off are entitled to use the appeal procedure of the institution if the procedural requirements of requesting such are met. The decision of the chief executive officer, after reviewing the final written recommendation of the hearing body, is final and not appealable to the Board.

(2) Tenured Faculty. A tenured faculty member is entitled to use one or the other of the following appeal procedures, but not both:

(a) A tenured faculty member may file a written request of appeal to the chief executive officer of the institution within fifteen (15) calendar days of certified receipt of the notice of intention of the chief executive officer to recommend layoff to the Board. In the written request, the tenured faculty member must set down the grounds upon which the layoff is alleged to be improper and ask for an informal resolution of the issue in advance of final action by the Board. If an

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informal resolution is not reached, the tenured faculty member may appear before the Board prior to its final action on the chief executive officer's recommendation for a layoff. The appearance before the Board will be informal and is not a contested case. The decision of the Board is final; or

- (b) Following final action of the Board, the tenured faculty member so affected is entitled to use the appeal procedure of the institution if the procedural requirements of requesting such are met. The decision of the chief executive officer, after reviewing the written recommendation of the hearing body, is final and not appealable to the Board. In the event the chief executive officer determines that his recommendation was made in error, a corrective recommendation must be made to the Board.

#### **(3) Appeal Procedure**

Each institution must establish an appeal procedure in the event such procedure does not currently exist. The hearing procedures must ensure a prompt and expeditious hearing that is fair and unbiased, but the procedural requirements of formal adjudication are not required. The final written recommendation of the hearing body must be conveyed to the chief executive officer. Use of the hearing procedure does not delay the effective date of the layoff.

- (a) Hearing Standard. The hearing body established must evaluate whether the established and approved procedures were followed and appropriate criteria applied in arriving at the decision to lay off a faculty member.
- (d) Limitations Upon Review. The hearing body will not review the Board's decision or the funding distribution among and within the institution(s).

#### **9. Standard of Review**

The sole basis on which to contest a layoff of employees subject to the Idaho classified personnel system and of University of Idaho classified employees is compliance with the rules of the Division of Human Resources where applicable, and compliance with these rules and the program for reduction in force approved by the Board. The sole basis to contest a layoff of tenured faculty members, nontenured faculty members, and nonclassified employees serving under a contract of employment for a fixed term is compliance with these rules and the program for reduction in force approved by the Board. The decision of the Board is judgmental or discretionary and is not subject to contest by any employee in any grievance or appeal procedure.

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**10. Layoff Roster for Classified Employees**

An agency, institution, school, or office laying off employees subject to the Idaho classified personnel system must prepare and distribute a listing of retention point scores of employees in classes to be affected by a layoff as required by the rules of the Division of Human Resources. The Idaho Division of Human Resources will maintain the layoff roster. A classified employee reinstated from a layoff roster will be paid at a pay grade and step consistent with the rules of the Idaho Division of Human Resources in effect at the time of reinstatement.

- a. The University of Idaho will maintain a layoff roster in the event of a layoff of University of Idaho classified employees consistent with the policies of the University of Idaho.
- b. An employee who is laid off may continue to contribute toward and receive the benefits of any state insurance program if the laws, rules, regulations, policies, and procedures governing the administration of such insurance program so permit.
- c. An employee who has been laid off and who accepts reemployment at an agency, institution, school, or office must be credited with any sick leave which the employee had accrued as of the date of layoff, and with any annual leave which the employee had accrued as of the date of layoff and for which the employee has not received payment.

**11. Reinstatements Rights**

- a. Tenured Faculty

In cases of layoff of tenured faculty members occupying permanent faculty positions, the position concerned may not be filled by replacement within a period of three (3) years from the effective date of the layoff unless the tenured faculty member has been offered a return to employment in that position and has not accepted the offer within thirty (30) calendar days after the offer is extended.

- (1) Refusal Of Reinstatement Offer. If an offer of reinstatement is not accepted, the tenured faculty member's name may be deleted from the reinstatement list, and, if so deleted, the Board has no further obligation to the faculty member.
- (2) Benefits During Layoff. A tenured faculty member who is laid off may continue to contribute toward and receive the benefits of any state insurance program if the laws, rules, regulations, policies, and procedures governing the administration of such insurance program so permit.

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- (3) Leave Credit. A tenured member of the faculty who has been laid off and who accepts reemployment at the institution will resume tenure and the rank held at the time of layoff, be credited with any sick leave accrued as of the date of layoff, be paid a salary commensurate with the rank and length of previous service, and be credited with any annual leave which the employee has accrued as of the date of layoff and for which the employee has not received payment.

#### **b. Non Tenured Faculty and Nonclassified Employees**

In cases of layoff of nontenured faculty members occupying permanent faculty positions, and nonclassified employees occupying permanent positions, the position concerned may not be filled by replacement within a period of one (1) year from the effective date of the layoff unless the employee has been offered a return to employment in that position and the employee has not accepted the offer within thirty (30) calendar days after the offer is extended.

- (1) If an offer of reinstatement is not accepted, the employee's name may be deleted from the reinstatement list, and if so deleted, the Board has no further obligation to the employee.
- (2) A nontenured faculty member or a nonclassified employee who is laid off may continue to contribute toward and receive the benefits of any state insurance program if the laws, rules, regulations, policies, and procedures governing the administration of such insurance program so permit.
- (3) A nontenured member of the faculty who has been laid off and who accepts reemployment at the institution will resume the rank held at the time of layoff, be credited with any sick leave accrued as of the date of layoff, be paid a salary commensurate with the rank and length of previous service, and will be credited with any annual leave which the employee had accrued as of the date of layoff and for which the employee has not received payment.
- (4) A nonclassified employee who has been laid off and who accepts reemployment at the institution will be credited with any sick leave the employee had accrued as of the date of layoff, paid a salary commensurate with the length of previous service, and credited with any annual leave which the employee had accrued as of the date of layoff and for which the employee has not received payment.



## **O. Search Guidelines**

### **1. Board Responsibilities**

- a. Prior to undertaking the search for a chief executive officer, the Board shall review the position job description and make appropriate changes if desired.
- b. The Board shall determine the composition of the screening committee, the scope of the search, and the desired timetable for filling the position.
- c. The Board shall make the final hiring decision.

### **2. Screening Committee Responsibilities**

- a. The screening committee shall determine the overall application process to achieve the hiring timetable desired by the Board.
- b. Based on the position job description, the screening committee shall advertise and recruit applicants for the position and shall determine the job announcement, its placement, and the dates of publication.
- c. The screening committee shall determine applicant criteria in relation to the job description and the procedure for ranking applicants.
- d. The screening committee shall establish the process for review of applications by committee members.
- e. The screening committee shall forward a list of no fewer than three (3) or more than five (5) qualified candidates to the Board. Once approved by the Board as a final candidate, the names of such candidates may be released to the public.
- f. Screening committee meetings, minutes, and materials will be confidential.

### **3. Search Costs**

The institution or agency for which the search is being conducted shall fund the cost of the search. Costs shall include per diem and travel for the selection committee and candidates interviewed and consultant fees as necessary. The institution or agency shall also provide secretarial and other support necessary for the search.

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**P. General Policies and Procedures – All Employees**

**1. Nondiscrimination Policy**

It is the policy of the Board that the institutions, agency, school, and office under its governance provide equal employment opportunities to applicants for employment and equal benefits to employees without regard to race, color, national origin, religion, sex, age, disability, or veteran's status in accordance with applicable state and federal laws.

**2. Equal Employment Opportunity**

The policy of the Board is to pursue a continuing program of specific positive practices designed to achieve the realization of equal employment opportunity without regard to race, color, national origin, religion, sex, age, disability, or veteran's status in accordance with applicable state and federal laws.

To implement this policy, the Board directs the chief executive officers of its institutions, agencies, school, and office to:

- a. recruit, hire, train, and promote persons without discrimination in accordance with applicable state and federal laws and the governing policies of the Board;
- b. make decisions on employment so as to further the principle of equal employment opportunity;
- c. ensure that promotion decisions are in accordance with the principles of equal employment opportunity; and
- d. ensure that all personnel actions affecting such matters as compensation, benefits, transfer, termination, layoff, return from layoff, sponsored training, education, and social and recreational programs are administered without discrimination.

Each chief executive officer or his or her designee is specifically responsible for ensuring that there are no obstacles to equal employment opportunity by establishing a program of affirmative action, ensuring internal adherence to such a program, and evaluating its progress.

**3. Sexual Harassment Policy**

Each institution, agency, school, and office must establish and maintain policies prohibiting sexual harassment and an internal process for investigating, addressing and remedying allegations of sexual harassment.

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Sexual harassment violates state and federal laws and the Governing Policies and Procedures of the Board. "Sexual harassment" is defined as unwelcome sexual advances, requests for sexual favors, or written statements, oral statements, or physical behavior of a sexual nature when:

- a. submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment, promotion, or status as an employee;
- b. an individual's submission to or rejection of such conduct is used as a basis for a decision affecting that person; or
- c. such conduct has the purpose or effect of substantially interfering with a person's work or work performance or creating an intimidating, hostile, or offensive environment.

**4. Drug Education Guidelines**

As a part of their commitment to developing human potential, postsecondary institutions can provide the individual student an educational environment conducive to making conscientious and healthy decisions when faced with the difficult choices associated with the use of legal and illegal drugs. The institutions can do so by developing programs available not only to their respective campus communities, but also by becoming an integral component of more extensive programs within their designated service regions. Postsecondary institutions can exhibit a perceptiveness for exploring the health and social issues of drug use, misuse, and abuse to their campus communities and to the general public. They can provide innovative leadership in examining the drug issues that face all Idaho citizens, not just students. These guidelines are intended to serve as a framework for a long-term approach to addressing the health and social problems of drug use in Idaho.

a. Coverage

Boise State University, Idaho State University, Lewis-Clark State College, the University of Idaho, and Eastern Idaho Technical College are covered by these policies. North Idaho College and the College of Southern Idaho are encouraged to participate in inter-institutional drug education efforts. Further, it is recommended that the universities, colleges, and vocational-technical schools work in concert with other agencies, both private and public, to develop and realize a statewide program of drug education.

b. Goals and Assumptions

The overall goals of a comprehensive drug education policy for institutions of higher education are:

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- (1) to present factual and accurate information to the adult students in Idaho regarding drug use, misuse, and abuse;
  - (2) to offer alternative behaviors and prepare students for responsible citizenship; and
  - (3) to provide leadership in the dissemination of information.
- c. In developing policies to achieve these goals, the institutions shall be guided by the following assumptions:
- (1) Education efforts should be directed to all members of the campus community -- students, faculty, and staff.
  - (2) Drug education program(s) should be an important part of campus life, both socially and academically. To this end, the institutions should employ a multi-dimensional approach.
  - (3) Campus drug policies should be clearly stated, realistic, and understandable, within legal guidelines.
  - (4) Campus drug policies should recognize that students are adults and are responsible for their own behavior.
  - (5) Institutions of higher education are not responsible for the personal lives and decisions of students, faculty, or staff.
  - (6) If the use or abuse of drugs threatens to cause disorder or danger to the students, faculty, staff, or others, including campus property, discipline should be enforced fairly and consistently.
  - (7) Institutions should make reasonable efforts to assist through campus facilities in the treatment of members of the campus community that seek assistance with drug-related concerns.
- d. Institutional Policies.

The colleges and universities shall have written policies that provide for the following:

- (1) Programs concerned with drug education, prevention, and counseling for all members of the campus community. Written policies regarding the use and abuse of drugs on campus shall be clearly stated, realistic, understandable, and within legal guidelines.

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- (2) Procedures for disciplinary action and enforcement for violation of campus rules and regulations.
- (3) Mechanisms to help members of the campus community seeking assistance with drug-related problems.

Institutional drug policies will be submitted to the State Board of Education for approval and will be placed on file in the Board office. Further, these policies will be reviewed and may be modified from time to time.

**e. Inter-Institutional and Inter-State Agency Cooperation.**

The colleges and universities shall cooperate with one another and with other state agencies in formulating a statewide strategy for easing the health and social problems associated with drug use and abuse facing the citizens of Idaho. The institutions can provide invaluable resources, research, expertise, and information to agencies such as the Departments of Education, Health and Welfare, and Law Enforcement.

#### **6. Personnel Files**

**a. Employee Files**

Each institution, agency, school, and office must maintain for each employee a personnel file, which is open for examination by the employee during the regular business hours of the office in which the file is kept.

- (1) No documents that are anonymous or based on rumor may be placed in the personnel file.
- (2) The employee may, pursuant to the Idaho public records act (Idaho Code §9-337 et. seq.), request in writing an amendment of any record pertaining to that employee. Within ten days of the receipt of the request, the custodian of the files will make any correction of any portion of the file which the individual establishes is not accurate, relevant, or complete; or inform the individual in writing of the refusal to amend in accordance with the request and the reasons for the refusal and the time period for doing so, as set forth in the Idaho public records act.
- (3) Within three days of a written request and payment of the cost of photocopying, the employee may obtain copies of any materials in his or her personnel file.

**b. Personnel Records Exempt From Disclosure**

Each institution, agency, school, and office will, other than to the employee as provided in Subsection 1 above and to supervisors and others involved in tenure reviews and

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performance evaluations as provided by Board and institutional policies and rules, refuse to disclose to third parties, all personnel records of a current or former employee other than the employee's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, work-place and employing entity.

All other personnel information relating to the employee or an applicant for employment, including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, will not be disclosed to the public without the employee's or applicant's written consent. A public official or authorized representative may inspect and copy his personnel records, except for materials used to screen and test for employment, as set forth in the Idaho public records act.

**c. File Maintenance and Retention**

- (1) The institution, agency, school, and office must maintain personnel files under such conditions as are necessary to ensure the integrity and safekeeping of the file and may establish additional policies and procedures for the maintenance of personnel files consistent with the Idaho public records act.
- (2) Any personnel files related to and involving legal action must be retained through any time period in which legal action may be taken.

Personnel files must be retained for a minimum of three (3) years following severance of an employment relationship with an institution, agency, school, or office. A summary record of employment relationships must be kept indefinitely.

## **7. Miscellaneous Policies and Procedures**

**a. Political Activities of Employees**

Employees retain unimpaired all of their individual and political rights of citizenship. However, employees may not exercise those political rights in the name of any institution, agency, school, or office, or through the use of Board facilities, or through the use of forms or official stationery or in any way that might involve an institution, agency, school, or office in partisan political activity or controversy.

- (1) The Board or any of its members, agents, representatives, or employees must not prevent, threaten, harass, or discriminate against any employee who chooses to run for public office.
- (2) Employees are permitted to campaign freely in a manner that does not violate Board Governing Policies and Procedures or applicable provisions of the Idaho Code.

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(3) Employees may choose to request a leave without compensation in order to campaign for elective office or to serve in an elective office by using the procedures established at an institution, agency, school, or office in addition to these policies and procedures.

**b. Loyalty Oaths**

No loyalty oath shall be required of any Board employee.

**c. Outside Employment**

The maintenance of a high standard of honesty, impartiality, and conduct by Board employees is essential to ensure the proper performance of its business and to strengthen the faith and confidence of the people of the State of Idaho in the integrity of state employees. The Board recognizes that employees may engage in outside employment of a professional or personal nature, directly related to the professional or other competencies of the employee. However, no employee may undertake outside employment that interferes with the employee's assigned duties to the Board or the agency, school, or office. In all outside employment, the outside employer must be informed that the employee is acting in a private capacity and that the institution, agency, school, or office is in no way a party to the outside employment, and is not liable or responsible for the performance thereof.

**d. Other Services to the Institution, Agency, School, or Office.**

An employee may be requested by the chief executive officer or his or her designee to perform responsibilities or provide services beyond the primary scope of his or her appointment.

Each institution, agency, school, and office must establish policies and procedures that do not conflict with policies and procedures of the Board regarding additional responsibilities or services.

Payment in addition to regular salaries must be authorized by the chief executive officer and reported to the Board as an informational item.

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**Q. Conflict of Interest and Ethical Conduct – All Employees**

**1. General Principles of Ethical Conduct**

All employees of the institutions, agencies, school and office:

- a. shall not hold financial interests that are in conflict with the conscientious performance of their official duties and responsibilities.
- b. shall not engage in any financial transaction in order to further any private interest using nonpublic information of the Board, institution, school, agency or office.
- c. shall put forth honest effort in the performance of their duties.
- d. shall make no unauthorized commitments or promises of any kind purporting to bind the Board or any Board-governed entity.
- e. shall not use their public offices for private gain.
- f. shall act impartially and not give preferential treatment to any private or public organization or individual.
- g. shall protect and conserve public property and shall not use it for other than authorized activities.
- h. shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official duties and responsibilities.
- i. shall promptly disclose to their chief executive officer waste, fraud, abuse, or corruption in accordance with applicable law and policy.
- j. shall endeavor to avoid any actions that would create the appearance that they are violating the law or the ethical standards of the Board or the relevant Board-governed entity.
- k. shall disclose potential conflicts of interest to the chief executive officer, or designee, of the institution, agency, school or office, and avoid Conflicts of Interest, potential Conflicts of Interest, and circumstances giving rise to the appearance of a Conflict of Interest.



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### **2. Conflict of Interest**

A Conflict of Interest occurs when a person's private interests compete with his or her professional obligations to the Board-governed entity to a degree that an independent observer might reasonably question whether the person's professional actions or decisions are materially affected by personal considerations, including but not limited to personal gain, financial or otherwise.

### **3. Consideration of Transactions**

- a. In the event that a person subject to this policy shall be called upon to consider a transaction involving a Board-governed entity and a person, entity, party, or organization with which the person is affiliated, as defined below, such person, as soon as he or she has knowledge of the transaction, shall: (i) disclose fully to the chief executive officer, or designee, the precise nature of his or her interest or involvement in the transaction and/or such organization, and (ii) refrain from participating in the institution's, agency's, school's or office's consideration of the proposed transaction.
- b. Each person subject to this policy shall disclose to the chief executive officer, or designee, of the entity all relationships and business affiliations that reasonably could give rise to a Conflict of Interest because of the employee's duties and responsibilities. This disclosure obligation is ongoing, and each employee has a duty to supplement or amend his or her disclosure when the employee knows that the disclosure was incorrect in a material respect when made or the disclosure, though correct when made, has become inaccurate in a material respect.
- c. For the purposes of this policy, an employee is "affiliated" with an organization if the person, a member of the person's immediate family (i.e., spouse, parents, children, brothers, and sisters), or a person residing in the employee's household or a legal dependent of the employee: (i) is an officer, director, trustee, partner, employee, or agent of such organization; (ii) is either the actual or beneficial owner of more than one percent (1%) of the voting stock of or a controlling interest in such organization; (iii) has any other direct or indirect dealings with such organization from which the employee is materially benefited. It shall be presumed that an employee is "materially benefited" if he or she receives, either directly or indirectly, money, services, or other property in excess of one thousand dollars (\$1000) in any year in the aggregate.
- d. All disclosures required to be made hereunder must be directed, in writing, to the chief executive officer, or designee, of the institution agency, school or office.

