

# Idaho State Board of Education

## GOVERNING POLICIES AND PROCEDURES

SECTION: II. HUMAN RESOURCES POLICIES AND PROCEDURES

Subsection: F. Policies Regarding Nonclassified Employees

Revised July 1, 2001  
Published February 2000

### F. Policies Regarding Nonclassified Employees

#### 1. Employment ~~Contract Terms~~

a. All nonclassified employees, ~~except those set forth in section b. below, serve at the pleasure of the chief executive officer, and may be dismissed at any time, with or without cause, and without notice, at the discretion of the chief executive officer. serve pursuant to an employment contract.~~

#### b. Employment Contracts

i. ~~The~~ An institution or school may provide employment contracts to its nonclassified employees. If the institution chooses to offer employment contracts to its nonclassified employees, the employment contract must include the period of the appointment, salary, pay periods, position title, employment status and such other information as the ~~agency,~~ institution, ~~or school or office~~ may elect to include in order to define the contract of employment. Nonclassified employees have no continued expectation of employment beyond their current contract of employment.

ii. Each employee must acknowledge receipt and acceptance of the terms of the employment contract by signing and returning a copy to the ~~agency,~~ institution, ~~or 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 to be a rejection of the offer of employment unless the parties have mutually agreed in writing to extend the time. Nothing in this paragraph prohibits the ~~agency,~~ institution, ~~or 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, ~~or school or office~~.

iii. 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 (or the Board of Regents of the University of Idaho, in the case of University of Idaho), and the policies and procedures of ~~(the institution, or agency, school or office).~~" The contract must also state that it may be terminated at any time for adequate cause, as defined

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in Section II.L., or when the Board declares a state of financial exigency, as defined in Section II.N.

~~b.iv. — 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, ~~, or 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 salary 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 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.~~

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~~(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.)~~

### ~~e.b.~~ 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.
- (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 the Board, no nonclassified employee will receive an automobile or automobile allowance as part of his or her compensation.

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### 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 earn further leave until the employee's use of annual leave reduces the accrual below the maximum.

Nonclassified employees in positions which are covered 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.

### 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 Contract 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

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### GOVERNING POLICIES AND PROCEDURES

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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. Except as set forth in this paragraph, nonrenewal is not grievable within the ~~agency, institution, or school~~ or ~~office~~ nor is it appealable to the Board. However, if an employee presents bona fide allegations and evidence ~~in writing~~ to the chief executive officer ~~of the agency, institution, or school or office~~ that the nonrenewal of the contract of employment was the result of discrimination prohibited by applicable law, the employee is entitled to use the internal discrimination grievance procedure to test the allegation. If the chief executive officer is the subject of the allegations, the employee can present the bona fide allegations and evidence to the Executive Director. The normal internal grievance procedure for discrimination must be used unless changed by mutual consent of the parties. The ultimate burden of proof rests with the employee. The ~~agency, institution, or 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 reasons prohibited by applicable law. Unless mutually agreed to by the parties in writing, the use of the discrimination grievance procedure will not delay the effective date of nonrenewal. Following the discrimination grievance procedures, if any, the decision of the ~~agency, institution, or school, or office~~ is final, subject to section c., below.
- c. The nonclassified contract employee may petition the Board to review the final action of the ~~agency, institution, or 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. Nothing in this section should be construed as any prohibition against filing a complaint with any appropriate state or federal entity, including but not limited to the Equal Employment Opportunity Commission (EEOC) or the Idaho Human Rights Commission (IHRC).

#### 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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