

**BUSINESS AFFAIRS AND HUMAN RESOURCES  
OCTOBER 20, 2016**

---

<b>TAB</b>	<b>DESCRIPTION</b>	<b>ACTION</b>
<b>1</b>	<b>AMENDMENT TO BOARD POLICY</b> Section II.F.2. – Policies Regarding Non-classified Employees (Courtesy Vehicles) – Second Reading	Motion to approve
<b>2</b>	<b>AMENDMENT TO BOARD POLICY</b> Section II.F.3. – Policies Regarding Non-classified Employees (Annual Leave) – First Reading	Motion to approve

---

**THIS PAGE INTENTIONALLY LEFT BLANK**

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**OCTOBER 20, 2016**

---

**SUBJECT**

Idaho State Board of Education Policy II.F. – Second Reading

**REFERENCE**

June 2016	Board approved the second reading of amendment to Board policy II.F (related to coach and athletic director employment agreements)
August 2016	Board approved first reading of amendment to Board policy II.F (courtesy vehicle policy)

**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho State Board of Education Governing Policies & Procedures, Section II.F.  
Section 49-2426, Idaho Code

**BACKGROUND/DISCUSSION**

The proposed amendment is the result of extended discussions among the State Board of Education (Board) Athletics Committee, the Board’s Deputy Attorney General and institutional legal counsel, and the State Risk Management office. Language has been added to the policy to emphasize state regulations with respect to state-owned or leased vehicles and the insurance requirements applicable when local dealerships provide courtesy vehicles to institution personnel who choose to make personal use of those vehicles.

**IMPACT**

The proposed amendment fills a gap in previous Board policy with respect to courtesy vehicles. The revised wording reiterates existing State policy that personal use by employees of agency-owned/leased vehicles—as well as institution-controlled courtesy vehicles which are insured through the State’s Risk management program—is not permitted. The amendment also provides the minimum coverage limits, special endorsements, and “additional insured” requirements when employees obtain personal insurance for courtesy vehicles.

**ATTACHMENTS**

Attachment 1: Amendment to Board Policy Section II.F. – 2<sup>nd</sup> Reading      Page 3

**STAFF COMMENTS AND RECOMMENDATIONS**

The proposed amendments to Board Policy II.F.2.b.vi will help ensure compliance and consistency with respect to use of institution-owned vehicles, including dealer-provided courtesy vehicles for college/university employees. There were no changes to the proposed amendment after the first reading. Staff recommends approval.

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**OCTOBER 20, 2016**

---

**BOARD ACTION**

I move to approve the second reading of the proposed amendment to Board Policy Section II.F.2.b.vi "Policies Regarding Non-classified Employees – Automobile Exclusion and Courtesy Vehicles" as provided in Attachment 1.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**OCTOBER 20, 2016**

---

**SUBJECT**

Idaho State Board of Education Policy II.F.2 and 3. – First Reading

**REFERENCE**

June 2016	The Idaho State Board of Education (Board) approved the second reading of amendment to Board policy II.F (pertaining to coach and athletic director employment agreements)
August 2016	Board approved first reading of amendment to Board policy II.F (courtesy vehicle policy)

**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho State Board of Education (Board) Governing Policies & Procedures, Sections II.A. and II.F., subsections 2 and 3.  
Sections 59-1607, 67-5303(j), 67-5329 and 67-5334, Idaho Code

**BACKGROUND/DISCUSSION**

In March 2014, President Obama directed the US Department of Labor (DOL) to review and update overtime eligibility standards under the Fair Labor Standards Act (FLSA) through the federal rulemaking process. The DOL published its final rule on May 23, 2016, with an implementation date of December 1, 2016 (Final Rule). The Final Rule updates the salary level required for the executive, administrative, and professional overtime exemptions from \$455 per week (\$23,660 per year) to \$913 per week (\$47,476 per year). As a result of implementation of the Final Rule, a number of non-classified professional staff at the institutions and agencies under the Board's governance who have been "overtime exempt" (i.e., not eligible for overtime) will now become overtime-eligible.

The Board is authorized, pursuant to Section 67-5303(j), Idaho Code, to designate certain positions as non-classified positions. Under Board Policy II.A., the Board has delegated primary responsibility for personnel management at the institutions to the chief executive officers within the extent allowed by Board policy and state law.

Section 59-1606, Idaho Code, authorizes the Board to set the vacation leave policies for its non-classified employees. Board Policy II.F. Policies Regarding Non-classified Employees sets out the requirements for individuals employed as non-classified employees at the agencies and institutions under the Board's governance, with the exception of policies for those employees who are in classifications that are called out specifically in other Board policies, such as Board Policy II.G. (Faculty) and II.H. (Coaching Personnel).

Board Policy II.F. specifies that non-classified employees who are not overtime eligible accrue annual leave (vacation time) at a rate of two (2) days per month. Board Policy II.F. also specifies that non-classified employees who are overtime eligible earn annual leave in accordance with the provisions of Section 67-5334,

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**OCTOBER 20, 2016**

---

Idaho Code. Section 67-5334, Idaho Code sets the rate of vacation accrual for classified and non-classified state employees. The rate of vacation accrual varies depending on whether an employee is classified or non-classified and the employee's length of service with the state, from approximately one (1) day to one point seventy five (1.75) days per month. Vacation accrual rates also impact the maximum amount of vacation that may be accumulated. State employees earning vacation time at the rate of two (2) days per month may not accumulate more than 240 hours of leave, while employees earning leave at the lower rates of accrual may accumulate between 192 hours to 336 hours depending on the length of time employed with the state.

Institutions and agencies under the Board are grappling with how to deal with the increased overtime-exempt threshold. Current employees affected by the change have been identified by the institutions and agencies. Institutions and agencies have the option of limiting payment of overtime by restricting employees' working hours to 40 hours per week, where possible. Raising salaries above the \$47,476 annual threshold is also an option, for those positions that also meet the "duties" test.

As detailed above, the new overtime eligibility impact extends beyond the actual impact of the payment of overtime to issues involving vacation accrual. Once implemented, the Final Rule will result in existing non-classified staff becoming overtime-eligible. Once overtime eligible, under existing Board Policy II.F., vacation time accruals would be reduced from two (2) days per month to a lesser amount.

In addition to the issue of vacation time accrual, it was discovered that the current Board policy regarding overtime compensation (Board Policy II.F.2.b.iii.) is not consistent with state law. Sections 59-1607 and 67-5329, Idaho Code, prohibit classified and non-classified officers and employees who are included in the definition of section 67-5303(j) from earning either overtime compensation or compensatory time. Until such time as state law can be amended it is necessary to remove the conflicting language from Board Policy II.F.2 (Compensation).

The proposed amendments to Board Policy II.F. amend subsection 2.b. bringing it into alignment with existing state law and updating subsection 3.a. to allow those individuals who are non-classified and currently earning leave at a rate of two (2) days per month to continue to earn leave at that rate as long as they remain in their current position.

**IMPACT**

At this time there has not been an analysis completed on the estimated fiscal impact to the total compensation package received by impacted employees. The institutions and agencies under the Board's governance are subject to the federal overtime eligibility requirements. The fiscal impact of having more staff who are overtime eligible may be controlled by limiting employees from working hours in

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**OCTOBER 20, 2016**

---

excess of 40 hours per week when such limitations do not impact the overall ability of the institution or agency to function, or by increasing annual salary levels.

The impact of grandfathering in the vacation leave accrual rates for newly overtime eligible staff is also difficult to quantify. The choice of leaving the policy “as is” would result in a financial savings to the institutions and agencies by reducing their costs for vacation leave accrual if employees who had been earning 2 days a month saw their vacation accrual rate decrease. Amending the policy to allow individuals impacted by the overtime eligibility requirement changes to continue to earn leave at a rate of two (2) days per month could have an impact on agency and institution staff morale. In one instance you would have individuals who previously were not eligible to earn overtime now eligible to earn overtime and accruing leave at a rate of two (2) days per month. These individuals would may feel adversely impacted if their vacation accrual rate is reduced. Allowing them to continue to accrue leave at the rate of two (2) days per month avoids any adverse impact to these employees. On the other hand, if the policy amendment is made, there will be other non-classified employees who are not eligible to earn overtime or individuals new to the same or similar positions who are only allowed to earn leave at the lesser classified employee rates.

Board staff will have numbers for the institution and agency employees under the Board’s governance that are currently in non-classified position and not overtime eligible that will become overtime eligible effective December 1, 2016 available at the October Board meeting. Current estimates are in the hundreds.

**ATTACHMENTS**

Attachment 1 - Amendment to Board Policy Section II.F.3 – 1st Reading Page 5  
Attachment 2 – Estimated Number of Employees Page

**STAFF COMMENTS AND RECOMMENDATIONS**

The proposed amendments to Board Policy II.F.3. will minimize the negative impact of the Final Rule on non-classified employees who will become overtime-eligible (but may or may not be permitted to work overtime) and who would be required to accrue leave at a lesser rate. If the policy was not amended, actual reduction in accrual rates for these employees would be dependent on the individual’s length of employment with the State of Idaho. The reduction in accrual would be between one (1) day per month to one-half (1/2) day per month.

The ability to accrue leave at the impacted employee’s current higher rate would be limited to their time in the specific position. If the employee were to move to a new position that was non-classified and not overtime eligible they would accrue leave based on the specific position at the rate of two (2) days per month. If the employee were to move to another position that was classified or non-classified and overtime eligible their leave accrual rate would be reduced to the rate of the specific position. The proposed amendment would not increase the current costs by the institutions for the leave accrued by the affected individuals—they would

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**OCTOBER 20, 2016**

---

continue to accrue leave at a rate based on two (2) days per month for full time employees. The proposed amendment would result in the institutions and agencies forgoing any leave accrual savings which might have been seen by application of the lower leave accrual rate to newly overtime eligible non-classified employees.

This proposed amendment deals with a complicated issue. Staff will provide a brief overview of the impact of the Final Rule and some examples of how newly overtime-eligible professional staff members would be differentially impacted under different workplace scenarios.

If the first reading of the proposed amendment is approved, it is anticipated that a second reading would take place during a special Board meeting in late November, in order for the policy to be in place by December 1, 2016. Financial and/or Human Resources staff of the institutions and agencies may be available to answer questions regarding the impact of the proposed changes to their specific institutions.

**BOARD ACTION**

I move to approve the first reading of the proposed amendment to Board Policy Section II.F.3 Policies Regarding Non-classified Employees – Annual Leave, subsections 2 and 3, as provided in Attachment 1.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_ No \_\_\_