



POLICIES AND PROCEDURES

Non-Renewal of Employment Contract

ISUPP 3030

POLICY INFORMATION

Policy Section: *Human Resources*

Policy Title: *Non-Renewal of Employment Contract*

Responsible Executive (RE): *AVP of Human Resources*

Sponsoring Organization (SO): *Office of Human Resources*

Dates: Effective Date: *September 9, 2013 (4-12-16) TBA*

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I. INTRODUCTION

Non-Classified Employees and Non-Tenured Faculty of Idaho State University with employment contracts have Fixed Terms of Employment. Employment beyond the contract period must not be legally presumed. The University reserves the right to non-renew the contract of a Non-Classified Employee or Non-Tenured Faculty member as needed. This policy sets forth the requirements for non-renewal of a Non-Classified Employee or Non-Tenured Faculty member's employment contract. This policy does not apply to classified employees and tenured faculty.

II. DEFINITIONS

- A. Fixed Term of Employment. A work agreement that specifies a pre-determined start and end date. The employment relationship expires automatically at the end of this specified term unless the contract is renewed.
- B. Non-Tenured Faculty. For the purposes of this policy, any person who holds academic rank, but is not yet tenured, has been denied tenure, or is employed under a non-tenured fixed term of appointment.
- C. Non-Classified Employee. For purposes of this policy, any person appointed to or holding a Non-Classified position at the University, except Non-Tenured Faculty.

- D. Reduction in Force. The elimination of one or more job positions due to financial constraints, organizational restructuring, or program closures.

III. POLICY STATEMENT

Non-Classified Employees and Non-Tenured Faculty are salaried employees of the University with fixed terms of employment. Non-Classified Employees and Non-Tenured Faculty are not subject to the administrative rules of the Idaho Division of Human Resources and Personnel Commission. No contract of employment with such an individual may exceed one (1) year without the prior express approval of the Idaho State Board of Education (SBOE), with the exception of employment agreements for athletic directors and coaches as set forth in section II.H of SBOE policy. Employment beyond the contract period may not be legally presumed. Renewal of an employment contract is subject solely to the discretion of the President or designee and, where applicable, the SBOE.

IV. AUTHORITY AND RESPONSIBILITIES

- A. The Office of Human Resources. Responsible for assisting departments with the process of contract non-renewal. The Office of Human Resources will assist all levels of management with this process, including the official notification of contract non-renewal.
- B. Supervisors, Department Heads, and Department Chairs. After consulting with their Dean or respective manager and the Office of Human Resources, Supervisors, Department Heads and Department Chairs are responsible for making recommendations for contract non-renewal through the supervisory line of authority as appropriate.
- C. Vice Presidents. For the purposes of this policy, Vice Presidents includes Executive Level Supervisors. Decision making authority for all employees in their individual leadership chains.
- D. The Provost or designee. Decision making authority for all employees within Academic Affairs, which includes all faculty appointments. Responsible for the official notification of contract nonrenewal for faculty appointments

V. PROCEDURES TO IMPLEMENT

- A. Contact Human Resources.
 - 1. Because contract non-renewal is specialized and often complex, departments must contact Human Resources to review related contract dates and notification requirements prior to initiating a contract non-renewal.

2. Under the guidance of Human Resources, departments must submit a written recommendation for non-renewal of contract through the supervisory line of authority to their respective Vice President or respective executive who issued the employment contract needing to be non-renewed.
 3. If supported by executive management, official notice of contract non-renewal will be sent by the respective Vice President, or executive who issued the employment contract needing to be non-renewed, or by Human Resources.
- B. Notice of Non-Renewal.
1. Financial Exigency.
 - a. Notice of non-renewal is not required when the SBOE:
 - i. Has authorized a reduction in force;
 - ii. Resulting from a declaration of financial exigency; and,
 - iii. A Non-Classified Employee and/ or Non-Tenured Faculty member employee is to be laid off.
 - b. In that event notice of layoff must be given as provided under the policies for reduction in force.
 2. Reasons for Non-Renewal.
 - a. Non-renewal of Non-Classified Employees and Non-Tenured Faculty without cause is the legal right of the President or designee of the President, as stipulated in SBOE policy (section II, sub-section F.).
 - b. If any reasons for non-renewal are provided to the employee for information, it does not convert the non-renewal to dismissal for cause and it does not:
 - i. Establish any burden of proof; or,
 - ii. Shift any burden of proof.
 - c. If the employee believes the non-renewal is based on an unlawful reason, the employee should use the grievance procedures identified in paragraph V.D.1, below.
 3. Notice Timelines.
 - a. Non-Classified Employees.
 - i. The Supervisor must provide notice of contract non-renewal to an administrative Non-Classified Employee:
 1. In writing; and,

2. At least sixty (60) calendar days before the existing period of appointment ends.
 - ii. Failure to give timely notice of non-renewal 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. Non-Tenured Faculty.
- i. Notice of non-renewal from the Provost or designee of the Provost must be given in writing and based on years of service obtained.
 1. First Year of Service and up until two (2) full years of service are obtained. The Non-Tenured Faculty will be notified at least 90 days in advance of the contract end date.
 2. Two (2) or more years of service and up until three (3) full years of service are obtained – The Non-Tenured Faculty will be notified at least 180 days in advance of the contract end date.
 3. Three (3) or More Years of Service – The Non-Tenured Faculty will be notified at least twelve (12) months in advance of the contract end date.
 - ii. Failure to provide timely notice of non-renewal because of mechanical, clerical, or mailing error does not extend or renew the letter or contract of employment for another term, but will extend the existing term of employment by the extent necessary to provide the employee with a timely notice of non-renewal.
- C. Request for Review.
1. Non-Classified Employees.
 - a. Request for review is not available.
 2. Non-Tenured Faculty.
 - a. Non-renewal of Non-Tenured Faculty at the end of their term of appointment 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 policy.
 - b. In such cases, the investigation or review will be concerned only with manner and date of notification of non-renewal and will not consider grounds for non-renewal.
 - c. The employee must request such investigation or review in writing to the Provost within fifteen (15) days of receipt of the written notice of non-renewal.

D. Grievance for Alleged Discrimination or Retaliation.

1. Non-Classified Employees.

- a. Non-Classified Employees presenting allegations that the non-renewal of their employment contracts is the result of discrimination or retaliation prohibited by applicable laws are entitled to use the internal discrimination grievance procedures found in ISUPP 1110 *Equal Opportunity, Anti-Harassment and Non-Discrimination* or ISUPP 1120 *Sexual Harassment Under Title IX*.
- b. Unless mutually agreed to by the parties in writing, the use of the discrimination grievance procedure will not delay the effective date of non-renewal.
- c. The decision of the University at the conclusion of the grievance process is final and not subject to review by the SBOE, except under the circumstances in described in Paragraph 3.

2. Non-Tenured Faculty.

- a. Non-Tenured Faculty presenting allegations that the non-renewal of their employment contracts is the result of discrimination prohibited by applicable laws are entitled to use the internal discrimination grievance procedures found in ISUPP 1110 *Equal Opportunity, Anti-Harassment, and Non-Discrimination* or ISUPP 1120 *Sexual Harassment Under Title IX*.
- b. Unless mutually agreed to by the parties in writing, the use of the discrimination grievance procedure will not delay the effective date of nonrenewal.

3. Petition to SBOE.

- a. If the President of the University is the subject of the alleged discrimination prohibited by applicable law, the Non-Classified Employee or Non-Tenured Faculty member may petition the SBOE to review the final action of the University.
- b. 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 the final action.
- c. 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 action.
- d. The fact that a review petition has been filed will not stay the effectiveness of the final action, nor will the grant of petition for review, unless specifically provided by the Board. Board review is not a matter of right.
- e. 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).

VI. RELATED LAWS, RULES, AND POLICIES

- A. ISUPP 1110 *Equal Opportunity, Anti-Harassment, and Non-Discrimination*
- B. ISUPP 1120 *Sexual Harassment Under Title IX*
- C. ISUPP 3050 *Categories of Employees*
- D. Idaho State Board of Education Governing Policies and Procedures,
<https://boardofed.idaho.gov/board-policies-rules/>
 - 1. Section II. Human Resources Policies and Procedures
 - a. Subsection E, Policies Regarding Classified Employees
 - b. Subsection F, Policies Regarding Nonclassified Employees
 - c. Subsection G, Policies Regarding Faculty (Institutional Faculty Only)
 - d. Subsection H, Coaches and Athletic Directors