



Idaho State University

POLICIES AND PROCEDURES

Disciplinary Action for Classified Staff

ISUPP 3190

POLICY INFORMATION

Policy Section: *Human Resources*

Policy Title: *Disciplinary Action for Classified Staff*

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

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

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I. INTRODUCTION

In accordance with Idaho Code and the Rules of the Idaho Division of Human Resources, Classified Staff at Idaho State University, (ISU or University) are subject to discipline, up to and including dismissal for adequate cause. This policy provides information and guidance to classified employees and managers regarding such disciplinary action and the related procedures to be followed when adequate cause exists.

Elimination of classified staff positions due to lack of work or reorganization within a unit is not considered disciplinary action. Any such action would be subject to applicable state regulations regarding classified staff layoffs.

II. DEFINITIONS

- A. **Adequate Cause:** one or more acts or omissions which, singly or in the aggregate, have directly and substantially affected or impaired an employee's performance of his or her assigned duties or the interests of the University or the Board. In addition, any conduct seriously prejudicial to the University may constitute adequate cause for discipline up to and including dismissal or termination of an employee. Examples include but are not limited to:

1. Cause for disciplinary action:
 - a. Failure to perform the duties and carry out the obligations imposed by the State constitution, State statutes, and rules of the employee's department or rules of the Administrator or the Division of Human Resources and Personnel Commission.
 - b. Inefficiency, incompetency, or negligence in performing duties, or job performance that fails to meet established performance standards.
 - c. Physical or mental incapability for performing assigned duties, if a reasonable accommodation cannot be made for the disabling condition.
 - d. Refusal to accept a reasonable and proper assignment from an authorized supervisor.
 - e. Insubordination or conduct unbecoming a State employee or conduct detrimental to good order and discipline in the agency.
 - f. Intoxication or being under the influence of alcohol, or the misuse of medications or controlled substances, while on duty.
 - g. Careless, negligent, or improper use or unlawful conversion of State property, equipment, or funds.
 - h. Use of any influence, which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage.
 - i. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude.
 - j. Acceptance of gifts in exchange for influence or favors given in an official capacity.
 - k. Habitual pattern of failure to report for duty at the assigned time and place.
 - l. Habitual improper use of sick leave.
 - m. Unauthorized disclosure of confidential information from official records.
 - n. Absence without leave.
 - o. Misstatement or deception in the application for employment.
 - p. Failure to obtain or maintain a current license or certificate lawfully required as a condition in performance of duties.
 - q. Prohibited participation in political activities.
- B. **Appeal:** any written request for relief from dismissal, demotion, suspension, or other adverse action filed with the Idaho Personnel Commission by an employee, appointing authority, or applicant. The meaning of appeal includes application, petition, or protest.

1. **Appellant:** An employee, appointing authority, or applicant filing an appeal or petition for review with the Idaho Personnel Commission.
 2. **Respondent:** The party whose interests are adverse to those of the appellant.
- C. Classified Employees:
1. **Entrance probation:** The probationary service required of an employee at the time of his or her original appointment or any subsequent appointment to State classified service excluding reinstatement and transfer, the duration of which is one thousand forty (1,040) hours of credited State service unless otherwise extended in accordance with applicable DHR Rule.
 2. **Classified Employee:** Any person appointed to or holding a position at ISU whose position is subject to the provision 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.
 3. **Permanent Status:** An employee in classified service who has successfully completed entrance probation.
 4. **Promotional Probation:** The probationary service required when an employee is promoted, the duration of which is one thousand forty (1,040) hours of credited State service.
- D. **Disciplinary Action:** an adverse employment action taken against an employee. Examples of Disciplinary Action include:
1. **Dismissal:** the separation of an employee from classified service with cause assigned by the appointing authority.
 2. **Suspension:** an enforced period of absence, without pay, for disciplinary purposes, for felony charges, or pending investigation of charges made against an employee.
 3. **Demotions:** reductions in pay within the same, or a different pay grade for involuntary disciplinary purposes.
- E. **Due Process:** As related to Idaho's Personnel System for permanent classified employees, the activities required to address an individual's constitutional right to notice and an opportunity to be heard.
- F. **Idaho Personnel Commission:** comprised of five commissioners appointed by the Governor. Idaho Code authorizes the Commission to hear appeals of nonprobationary, classified employees who, after completing departmental due process, appeal a disciplinary dismissal, demotion or suspension.

- G. **Involuntary Transfer:** A significant change in work location, shift and/or organizational unit made as a result of a management decision as opposed to an employee's request or agreement to transfer. Notice and opportunity to be heard must be given to an employee subject to an involuntary transfer in accordance with ISUPP # 3160, Classified Employee Due Process and Appeal Procedure.
- H. **Problem-Solving Track:** available to any classified employee and deals with non-disciplinary matters [job related issues other than those defined as disciplinary under Idaho Code § 67-5315(2)].

III. POLICY STATEMENT

It is the policy of Idaho State University that adequate cause must exist before disciplinary action, such as dismissal, suspension, involuntary demotion, or involuntary reduction in pay is taken against a classified employee in accordance with Idaho Code § 67-5309 and Idaho Division of Human Resources Rule IDAPA 15.04.01.190.

Any employee, regardless of employee type, may be laid off in conjunction with a reduction in force approved by the Board and/or resulting from a declaration of financial exigency. Layoff and reinstatement of employees to duty will be as provided in the Rules of the Idaho Division of Human Resources regarding reduction in force.

IV. AUTHORITY AND RESPONSIBILITIES

- A. The Office of Human Resources is responsible for maintaining this policy and assisting departments with reviewing for-cause disciplinary action. The Office of Human Resources will assist all levels of management to ensure there is sufficient evidence of adequate cause prior to the execution of disciplinary action.
- B. Classified employees are responsible to meet the expectations of performance established for their respective positions by the management chain. Classified employees are responsible to understand that management is authorized to take disciplinary action against them only when there is adequate cause to do so as outlined in this policy.
- C. Supervisors, directors, deans, department heads and other managers (Unit Head(s)) are responsible for communicating performance expectations to their employees and then taking appropriate corrective action when performance expectations are not met. If adequate cause exists to take disciplinary action, said managers are responsible to make a recommendation through their respective management chain up to their respective Vice

President, President, or other direct report to the President that identifies the reasons for the recommended action along with all supporting evidence that adequate cause exists. Unit Heads are responsible for contacting the Office of Human Resources to review all recommendations for disciplinary action. Vice Presidents are responsible to review this policy and contact the Office of Human Resources if they need assistance with any type of disciplinary action.

- D. The President or designee of the President such as a Vice President or other comparable level executive is responsible to contact the Office of Human Resources and review this policy prior to enacting disciplinary action against a classified employee such as unpaid suspension, dismissal, or involuntary demotion. It is the responsibility of the President or his or her designee to consult with the Office of Human Resources to ensure adequate cause exists, that said employees are notified of what action is being contemplated against them, and that classified employees have an opportunity to respond to a recommendation for disciplinary action prior to such action being taken.

V. PROCEDURES TO IMPLEMENT

Prior to the enactment of disciplinary action, the following procedures will be followed:

- A. Recommendation: Once adequate cause exists for potential disciplinary action, the Unit Head will review all evidence of adequate cause with the Office of Human Resources. A recommendation will then be prepared for the review and consideration of the management chain, up to and including the respective Vice President. The recommendation will identify what disciplinary action is being recommended, the reasons for said disciplinary action, and include all evidence that supports the establishment of adequate cause for such action.
- B. Administrative Leave: The respective Vice President or designee may choose to place an employee on administrative leave with pay prior to, or after a recommendation for disciplinary action has taken place if it is in the best interest of the University or necessary to complete investigative efforts. Placing an employee on paid administrative leave does not constitute disciplinary action. If an employee is placed on administrative leave, the employee will still be notified of any contemplated disciplinary action and be given an opportunity to respond as outlined in section V.C of this policy.
- C. Notice of Contemplated Action: If the management chain, up to and including the respective Vice President or other comparable level executive, concurs with the recommendation for disciplinary action, said executive will contact the Office of Human Resources to prepare a Notice of Contemplated Action which will be issued to the

classified employee. The Notice of Contemplated Action will describe to the employee what action is being recommended, the reasons for that action, and the evidence that is being relied upon in contemplating that disciplinary action. The Notice of Contemplated Action must be made in the following manner:

1. The respective Vice President or comparable level senior executive must issue the notice.
 2. The notice must be in writing and may be personally served upon said employee or sent by certified mail, return receipt requested to the last known address of the employee.
 3. The notice must contain a concise statement of the charges against the employee and the nature of the proposed action, and include any evidence that is being relied upon in contemplating the disciplinary action. The notice must provide the employee an opportunity to respond to the respective Vice President or comparable level senior executive and to present any reasons, evidence, or information in mitigation or opposition to the recommendation, (see section V.D of this policy).
 4. The employee and the State Human Resources Administrator shall be notified concurrently in writing; and shall set forth the specific rule(s) violated and the reasons for Disciplinary Action.
 5. If the employee has not already been placed on administrative leave as part of an investigative effort, the classified employee will be placed on paid administrative leave upon receipt of the Notice of Contemplated Action.
- D. Opportunity to Respond: As outlined in the Notice of Contemplated Action, the opportunity to respond must occur within ten (10) working days after the employee has received the Notice of Contemplated Action, unless both the employee and department agree otherwise in writing. After the employee has responded, or after the period to respond has expired or has been waived in writing by the employee, whichever occurs first, the respective Vice President or comparable level senior executive may then proceed in making the University Decision as outlined in section V.E of this policy. The employee must be informed of their right to be represented by a person of the employee's own choosing during the opportunity to respond.
- E. University Decision: After the opportunity to respond has concluded, the Unit Head and respective Vice President or comparable level senior executive will make a decision regarding disciplinary action, which weighs the response of the employee against the recommendation of the management chain and the evidence of adequate cause. The University Decision will be issued within ten (10) business days of the opportunity to respond and may be personally served upon the classified employee or mailed, return

receipt requested, to the last known address of the employee. The University Decision will be concurrently sent to the Administrator of the Idaho Division of Human Resources.

1. The University Decision must contain a statement of the employee's right to exercise the classified employee appeal process as described in Idaho Code Section 67-5316 and ISUPP #3160.

F. Suspension on Felony Charges

The University may suspend without pay an employee upon the issuance by a county prosecutor of an information or indictment by a grand jury for felony charges. Such suspensions may remain in effect during the time such charges are pending. Full reinstatement of all benefits and salary that the employee would have otherwise been entitled shall be provided to the employee upon a subsequent finding that charges or information were without grounds or the employee was not found guilty. For the purpose of this rule, a judgment withheld under Rule 33(d) of the Idaho Rules of Criminal Procedure is a conviction.

VI. RELATED POLICIES AND STATUTES

- A. Idaho Code § 67-5309 – Rules of the Division of Human Resources and the Personnel Commission
- B. Idaho State Board of Education Governing Policies and Procedures, <https://boardofed.idaho.gov/board-policies-rules/>
 1. Section II, Human Resources Policies and Procedures, Subsection L, Discipline – Adequate Cause – All Employees
- C. ISU Policies and Procedures
 1. Human Resources Policies – <https://www.isu.edu/policy/human-resources/>
 - a. ISUPP 3050 *Categories of Employees*
 - b. ISUPP 3160 *Classified Employees Problem Solving, Due Process, and Appeal Procedure*
 - c. ISUPP 3130 *Disciplinary Action for Non-Classified Staff*
 2. Academic Affairs Policies <https://www.isu.edu/policy/academic-affairs/>
 - a. ISUPP 4039 *Faculty Suspension or Dismissal for Adequate Cause*
- D. Rules of the Idaho Division of Human Resources, IDAPA 15.04.01
 1. Rule 190 – Disciplinary Actions