

DEQ Human Resources Policy and Procedures Manual



State of Idaho
Department of Environmental Quality



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Table of Contents

1	Employee Information and Responsibilities.....	1
1.1	Duties and Authorities.....	1
1.1.1	Interpretation	1
1.2	Requests for Policy Changes.....	1
1.3	Employee Expectations	2
1.3.1	Policy Violations.....	2
1.3.2	Employee Communications	2
1.3.3	Standards of Conduct	3
1.3.4	Prevention of Government Waste.....	3
1.3.5	Orientation of New Employees	3
1.3.6	Performance Management	3
1.3.7	Confidential Information	6
1.3.8	Recording of Meetings.....	7
1.3.9	Public Records.....	7
1.3.10	Alcohol and Drug-Free Workplace.....	7
1.3.11	Weapons and Violence in the Workplace	7
1.3.12	Domestic Violence	8
1.4	Personal Conduct.....	11
1.4.1	Dress and Personal Hygiene	11
1.4.2	Punctuality/Attendance.....	11
1.4.3	Work Area	11
1.4.4	Religious Expression	11
1.4.5	Solicitations.....	11
1.4.6	Smoking	12
1.4.7	Employee Organizations	12
1.5	Personal Use of Department Resources.....	12
1.5.1	Time and Equipment.....	12
1.5.2	Telephone Usage	12
1.5.3	Electronic Communications	12
1.5.4	State Vehicle Use Overnight	13
1.6	Conflict of Interest.....	13
1.6.1	Impartiality in Performing Official Duties.....	13
1.6.2	Disclosure Requirement	13
1.6.3	Withdrawal from Conflict	13
1.6.4	Outside Activities	14

1.6.5	Compensation from Outside Sources.....	14
1.6.6	Outside Employment	15
1.6.7	Nepotism.....	16
1.6.8	Cohabitation and Romantic Relationships	16
1.7	Political Activities.....	16
1.7.1	Rights	16
1.7.2	Limitations	16
1.8	Employee Files.....	17
1.8.1	Personnel Files	17
1.8.2	Employee Personnel Action Documents	17
1.8.3	Employee Medical Files	17
1.8.4	Employment Reference Checks	17
1.9	Nondiscrimination	18
2	Staffing and Recruitment.....	19
2.1	General Requirements.....	19
2.1.1	Employment Eligibility	19
2.2	Recruitment.....	20
2.2.1	General Requirements.....	20
2.3	Position Classifications	20
2.4	Selection Process and Use of Eligibility Registers (Hiring Lists)	20
2.4.1	Hiring From Top 25 Available Candidates	20
2.4.2	Veterans Preference	21
2.5	Minimum Qualifications Specialties	21
2.6	References	21
2.7	Interview Expenses	21
2.8	Appointments, Reinstatements, and Transfers.....	22
2.8.1	General Requirements for Appointments	22
2.8.2	Limited-Service Appointments	22
2.8.3	Temporary Appointments (Nonclassified)	22
2.8.4	Acting Appointment to a Position	22
2.8.5	Reinstatements.....	23
2.8.6	Lateral Transfers	23
2.9	Underfills	24
2.9.1	Completion of Underfill	24
2.10	Doublefills.....	25
2.11	Volunteers	25

2.12	Demotions	25
2.13	Probationary Periods.....	25
2.13.1	General Requirements.....	25
2.13.2	Extension of Probation	26
2.13.3	Separation during Probationary Period.....	26
2.14	Resignation/Separation	27
2.14.1	Notice.....	27
2.14.2	Rescission and Reinstatement.....	27
2.14.3	In Lieu of Dismissal	27
2.14.4	Use of Paid Leave Before Resignation	28
2.14.5	Separation upon Failure to Return to Work.....	28
2.15	Layoff Policy.....	28
2.15.1	Conditions for Layoff/Reduction in Force (RIF)	28
2.15.2	Layoff Organizational Units	28
2.15.3	Calculation of Retention Points	29
2.15.4	Initial Considerations	30
2.15.5	Transfers	30
2.15.6	Moving Expenses	30
2.15.7	Disability Layoff.....	30
3	Compensation and Benefits.....	30
3.1	Compensation.....	30
3.1.1	Salary Administration Policies	30
3.1.2	Merit Increases, Temporary Merit Increases, Salary Equity Increases, and Bonuses.....	32
3.1.3	Hours of Work, Payroll, and Overtime	35
3.1.4	Alternative Work Schedule and Telecommuting Policy	38
3.2	Benefits.....	43
3.2.1	Eligibility.....	43
3.2.2	Holiday Leave.....	44
3.2.3	Vacation Leave.....	44
3.2.4	Sick Leave.....	48
3.2.5	Workers' Compensation	51
3.2.6	Restricted or Light-Duty Assignments	51
3.2.7	Paid Parental Leave	52
3.2.8	Voluntary Leave Donations.....	55
3.2.9	Family and Medical Leave Act	56

3.2.10	Americans with Disabilities Act as Amended DEQ Reasonable Accommodation Policy.....	66
3.2.11	Special Leave Benefits	69
3.2.12	Training/Coursework	73
3.2.13	Moving	75
3.2.14	Employee Service Recognition	76
3.2.15	Employee Assistance Program.....	76
4	Problem Solving	77
4.1	General (Idaho Code §§67-5315, IDAPA 15.04.01.200)	77
4.2	Time Frames	77
4.3	Work Time	77
4.4	Optional Mediation Step	78
4.5	Retaliation Prohibited.....	78
4.6	Representation	78
4.7	Problem Solving Procedure Steps	79
5	Respectful Workplace.....	80
5.1	General	80
5.2	Equal Employment Opportunity.....	80
5.3	Individuals and Conduct Covered.....	80
5.4	Definitions of Harassment.....	80
5.5	Respectful Workplace Defined	81
5.6	Reporting Procedure	82
5.7	Agency Responsibility	82
5.8	Retaliation Prohibited.....	82
5.9	Corrective Action	83
5.10	Confidentiality	83
5.11	Training.....	83
6	Corrective and Disciplinary Actions	84
6.1	Corrective Actions	84
6.2	Performance Improvement Plans	84
6.3	Disciplinary Actions	85
6.4	Due Process (IDAPA 15.04.01.200.06).....	86
7	References and Resources.....	89

List of Tables

Table 1. Vacation accrual rates and limits. Idaho Code §§67-5334	46
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List of Figures

Figure 1. Problem solving procedure steps.	79
Figure 2. Due process.....	88

Note: Nothing in this policy manual constitutes or implies a contract with any employee. These policies may be changed at any time without notice. It is the employees' responsibility to regularly review policies for changes.

1 Employee Information and Responsibilities

1.1 Duties and Authorities

In accordance with the legislature's intent in creating the Idaho Personnel Act and for consistency in rule administration, appointing authorities shall ensure that staff with human resource (HR) management responsibilities adhere to these administrative rules. Any person willfully violating provisions of the Idaho Personnel System or the rules established in IDAPA 15.04.01 (Rules of the Division of Human Resources and Idaho Personnel Commission) may be subject to discipline up to and including dismissal under Section 190 and/or sanctions provided in Idaho Code §67-5312.

The Department of Environmental Quality (DEQ) Director is the appointing authority for DEQ and is given the power to supervise, direct, account for, organize, plan, administer, and execute the functions vested within DEQ as provided by law. The director exercises this authority, with certain statutory exceptions, within the rules of the Office of the Governor, Division of Human Resources (DHR). The director has the authority and responsibility to adopt and publish procedures, policies, controls, and rules necessary to administer HR functions within DEQ (IDAPA 15.04.01.001; Idaho Code §67-2405).

Upon written request, the director may authorize a waiver to any DEQ policy. The director has the authority to delegate certain authorities to the deputy director or administrators, and they, in turn, may delegate certain authorities.

Administrators are authorized by the director to manage their HR issues in conjunction with the HR Office; in conformance with DHR rules; in conformance with state and federal laws, executive orders, and regulations; and in keeping with the highest standards and practices of ethics of HR management.

1.1.1 Interpretation

Official interpretations of DHR rules and this manual will be the responsibility of the DEQ human resource officer (HRO), director, deputy attorney general, and, as necessary, in cooperation with DHR staff.

1.2 Requests for Policy Changes

As appropriate, the director may adopt, amend, or repeal existing department policies and procedures. These changes must be incorporated into the existing manual per instructions at the time of the next revision.

Requests for adoption, amendment, or repeal of department HR policies and/or procedures must be directed to the HRO for approval by the director. The HRO shall notify the interested

person(s) of any final action taken by the director in relation to recommended changes submitted.

HR policies and procedures specific to a division or region within DEQ must be submitted to the HRO for review and approval before implementation to ensure consistency and conformity with existing department-wide policies and procedures.

As necessary, the HRO will be responsible for policies and procedures manual updates, upon approval by the director.

1.3 Employee Expectations

1.3.1 Policy Violations

DEQ strives for excellence in public service. Each employee is responsible for the integrity and consequences of their own actions. Employees are expected to model professional behavior and treat everyone with dignity and respect. Employees are expected to be aware of and adhere to the following standards while using good judgment at all times. Employees are advised to refer questions regarding these standards to their management or HR.

Any policy violation may be subject to disciplinary action, up to and including dismissal, as described in section 6 of this manual.

1.3.2 Employee Communications

The term communication is to be broadly interpreted. Communications include, but are not limited to, interactions in person; interactions through written notes, memos, and letters; and interactions using electronic devices (e.g., phone, email, text messages, computers, social media, other websites, blogs, YouTube, forums, video conferencing applications).

External Communications

DEQ employees must be courteous and professional when communicating with members of the public, associations, and other state/federal agencies. Calls and emails should be returned promptly. Employees should answer questions honestly and directly. If an employee does not know the answer to a question, they should let the individual know, should not express opinions, and should inform the individual they will find out the answer or refer the question to the appropriate person.

Internal Communications

DEQ employees must be courteous and professional when communicating with each other. Every employee deserves respect, even if you don't agree with them. Personal attacks (verbal or physical), gossip, jokes, foul language, offensive remarks, or disparaging comments, even in the guise of humor or as an expression of irritability, are destructive to the morale of DEQ and damage trusting relationships. Behavior of this nature will not be tolerated by DEQ. Interactions among employees must be directed at issues and solutions. Employees should present

concerns or problems to their supervisor. Employees share the expectation and the responsibility of contributing to a respectful workplace (see section 5).

1.3.3 Standards of Conduct

Employees must strive to obey all laws while on and off duty.

Driving

While driving state vehicles, all state and local traffic laws must be observed at all times (see State Travel Policy and Procedures). Texting while driving is prohibited (Idaho Code §49-1401A) and DEQ requires the use of hands-free devices when talking on a cell phone and driving a state vehicle.

An employee who operates state vehicles must report a driver's license suspension to their supervisor and HR at the beginning of the employee's next work day upon receiving notice of the suspension. An employee receiving any moving violation while operating a state vehicle must report the violation to their supervisor and HR at the beginning of the employee's next work day.

Misdemeanors or Felonies

An employee must notify HR of an arrest and/or citation received for a misdemeanor or felony that may impact their ability to perform their job. An investigation may be completed by HR to determine any necessary follow up.

1.3.4 Prevention of Government Waste

It is the duty of each employee to protect the integrity of DEQ and the state as a whole. DEQ may not take adverse action against an employee because the employee, or a person authorized to act on behalf of the employee, communicates in good faith the existence of any waste of public funds, property, or manpower, or a violation of a law, rule, or regulation adopted under the laws of this state.

Such communication shall be made at a time and in a manner which first gives DEQ reasonable opportunity to correct the waste or violation (Idaho Code §§6-2101 through 2109).

1.3.5 Orientation of New Employees

It is DEQ's policy that all new employees complete a new employee orientation (NEO). NEO should be attended as soon as possible after an employee's start date. In addition to NEO, new employees are required to read policies and procedures outlined in the Required Reading Acknowledgement Form located on the DEQ intranet.

1.3.6 Performance Management

DEQ utilizes performance management as a valuable tool in fostering growth in employees through consistent feedback. Performance management measures the employee's progress

toward their goals and objectives. DEQ considers performance management one of the supervisor's most important tasks—performance evaluations are official documents and used to make employment decisions.

Timeframes

State law requires an annual performance evaluation of each classified employee. In accordance with Idaho Code §67-5309 and IDAPA 15.04.01.210, performance reviews will be completed for initial and promotional appointments. A performance evaluation will be completed as agreed upon for voluntary probationary periods with reinstatements, transfers, or voluntary demotions from another agency (IDAPA 15.04.01.150.02.c.). Performance evaluations for all classified employees will be completed every 2,080 hours of credited state service and in connection with personnel actions (e.g., promotions, salary increases, bonuses, transfers of supervision, demotions, terminations). Part-time employees must be evaluated on an annual basis.

Supervisors have 90 days to complete the required performance evaluation. Supervisors will provide HR and next level supervisor review of the draft performance evaluation before presenting it to the employee. For probationary performance evaluations, these reviews must be completed before the employee reaches their 1,040 hours. Supervisors who do not meet these timeframes will receive a Does Not Achieve rating on the Leadership expectation of their next performance evaluation. If extenuating circumstances cause a delay, the supervisor's administrator is responsible for working with HR to resolve the issue and to determine if the Does Not Achieve rating is still appropriate.

Supervisors must complete close-out performance evaluations within 30 days of transfer for employees transferred/promoted to another position and/or transferred to another supervisor within DEQ. This includes when a supervisor is leaving DEQ employment (retiring, resigning). If a performance evaluation has been completed within the previous three months, and there have been no changes in performance since the previous evaluation, a cover sheet noting that no changes have occurred since the previous evaluation may be completed in lieu of a full close-out evaluation.

Aside from these predetermined evaluation periods, employee performance evaluations may be scheduled at other intervals as necessary. These times may coincide with completion of projects, programs, special assignments, work seasons, or as needed for improvements in performance.

Performance Objectives

Planning for goals and objectives occurs at the beginning of the rating period so that employees understand the tasks and responsibilities assigned to them as well as the supervisor's expectations. Performance objectives should include identification of new responsibilities or special projects assigned to the employee for the rating period, on-going core work responsibilities, action plan for improvement items, and a training plan. The objectives are

based on the position description and work priorities linked to the strategic plan. Objectives should be specific, measurable, achievable, relevant, and time-based.

The supervisor and employee will discuss the specific goals and objectives that will be included for the next review period. This discussion allows for employee feedback regarding the goals and objectives they will be required to complete. The supervisor may establish an objective for improvement in an area in which the employee's performance is below standard. Both the supervisor and the employee are expected to discuss goals and objectives, how to achieve them, the means by which to measure them, and reasonable time frames to complete the goals and objectives.

Feedback Intervals

Supervisors must complete mid-review feedback meetings with employees to communicate how they have been performing in regard to their performance expectations, responsibilities, and objectives. This mid-review feedback should be reflected in the performance evaluation as deemed appropriate. For employees on probation, supervisors must notify HR of any performance concerns immediately.

Employee Self-Assessment & Peer Feedback

It is recommended supervisors have the employee complete a Self-Assessment Form about one month before the due date of their evaluation. The self-assessment provides the supervisor with the employee's perspective of their performance. It can also serve as a reminder of accomplishments throughout the year that may have been overlooked by the supervisor.

Supervisors will request feedback from peers and individuals the employee works with before completing the evaluation. Supervisors should ask for the employee's input when developing the list of individuals to request feedback from. If the employee works in the state office, the supervisor will request feedback from the employee's counterparts in the regions. The reverse will occur if the employee works in the region. When evaluating an employee who has supervisory duties, the supervisor will request feedback from the employee's staff. Feedback forms will be kept in the supervisor's file on the employee for the term of their employment under that supervisor. Staff receiving requests for feedback are encouraged to respond if their workload allows.

Writing the Performance Evaluation

The supervisor needs to be specific about the work accomplished, how well it was completed, and where the employee's focus should be in the future. Avoid generalities, adjectives, and adverbs without nouns that do not help guide performance. Include examples so that the employee has some reference for the feedback. Also, include how their performance impacts the group/agency/work.

Describe whether or not each objective has been met. Summarize the overall performance for each performance expectation. Also state the focus for the future. Examples of quotes

(feedback from others) may be included to reinforce comments. The supervisor should be careful in determining which quotes to include. Do not include the name of the individual providing the feedback. It is advisable to summarize the feedback received. It is the supervisor's role to deliver the performance message in a measured and constructive way.

Comments used to describe progress in meeting performance objectives and expectations (with specific examples) need to directly support the performance rating (overall and categorical). The supervisor needs to carefully read the rating descriptions for each expectation and pick the description that accurately depicts the performance.

Review of Draft Evaluation

The supervisor will have HR and the next-level supervisor review the draft performance evaluation to provide feedback and comments before providing or discussing the evaluation with the employee. At the time of the review, the supervisor should provide relevant background information to HR and the next-level supervisor to assist with the employee's review.

Performance Evaluation Meeting with Employee

The supervisor will provide a copy of the proposed performance evaluation to the employee before the meeting and then set a date and time to meet. During the meeting, the supervisor should review the highlights from each section of the evaluation. The employee should then have an opportunity to provide feedback on the evaluation and/or attach comments. The supervisor and employee should also discuss the performance objectives and training for the upcoming review period. Changes may be made to the performance evaluation based on conversations during the review meeting. The supervisor must obtain next-level reviewer approval of any changes. When the employee signs the evaluation, it is only an acknowledgement they received it—not that they agree with it.

The employee must be allowed opportunity to submit written comments to their supervisor or HR regarding the evaluation contents within 10 working days of receiving the evaluation. Employees may problem solve their evaluation, see Section 4. Supervisors are required to manage performance on a consistent basis, including completion of performance evaluations within required time frames for all employees under their direct supervision (IDAPA 15.04.01.210).

1.3.7 Confidential Information

Confidential information pertaining to regulated entities, fellow workers, and certain functions of DEQ may, as a part of routine, become known to employees of and/or contractors to DEQ. Employees and contractors are prohibited from disclosing this confidential information to any person other than employees of DEQ or, as required, employees of federal or state regulatory agencies (IDAPA 15.04.01.190.01.m).

1.3.8 Recording of Meetings

Electronic recording by employees of any agency training, event, or meeting is prohibited without prior approval of the administrator. The recording must be disclosed to attendees in advance.

1.3.9 Public Records

Employees and contractors must follow the “Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality,” and Title 74, Chapter 1, section 9 of the Idaho Public Records Act. Questions regarding the Idaho Public Records Act are to be directed to the attorney general legal staff assigned to DEQ.

1.3.10 Alcohol and Drug-Free Workplace

It is DEQ’s policy to maintain an alcohol and drug-free workplace in accordance with the Governor’s Executive Order No. 2007-08: Establishing the Idaho Alcohol and Drug-Free Workplace Policy. DEQ is committed to maintaining a work environment free from illegal drugs and drug and alcohol abuse. Employees are prohibited from the unlawful manufacture, distribution, dispensation, possession, or use of illegal drugs, controlled substances, and/or alcohol while working.

As a condition of employment, DEQ employees are required to abide by this drug-free policy and must notify HR of any criminal drug statute conviction for a violation occurring while working no later than five days after such conviction.

If an employee reports to work under the influence of legal or illegal substances and appears to be impaired, they may be subject to reasonable suspicion testing.

1.3.11 Weapons and Violence in the Workplace

Weapons

DEQ is a weapons-free zone. The possession of firearms, fireworks, explosives, chemical weapons, knives or similar objects with blades over 4 inches in length, and weapons or their replicas is prohibited in any DEQ facility. Knives or similar objects with blades over 4 inches long will be permitted for use as laboratory, field, and kitchen equipment. The possession of firearms, fireworks, explosives, knives or similar objects with blades over 4 inches in length, and weapons or their replicas is prohibited in any DEQ vehicle unless approved in writing by the director.

The following individuals are exempt from this weapons restriction:

- Peace officers as defined in Idaho Code §19-5101
- Criminal investigators of the attorney general's office or a county prosecuting attorney's office
- Individuals or organizations displaying weapons as part of a historical or cultural presentation who have received written permission from the Office of the Governor
- Law enforcement officials authorized to carry a firearm under federal statute

Violence

DEQ is committed to providing a violence-free work environment. DEQ will not tolerate any form of violence in the workplace, including verbal or physical threats of harm or intimidation. All employees share the responsibility to make and keep the workplace safe.

Violence and threats of violence may include, but are not limited to, the following:

- Physically-aggressive acts (e.g., hitting, shoving, fighting)
- A serious communicated or implied intent to harm another, endanger someone's safety, or destroy property
- Actions that have a potential for violence (e.g., throwing objects, waving fists, destroying property)
- Obsessively directed behavior (e.g., harassing phone calls or emails, stalking, intensely focusing on a grudge or grievance)
- Inappropriate use or display of any dangerous device

Duty to Report

All employees have a duty to report any violence or threat of violence immediately to the director, administrator, or HR who will promptly address concerns or incidents of workplace violence.

Confidentiality

After reporting the situation, employees shall not discuss the matter with coworkers and/or persons not directly responsible for addressing the matter, except in cases when there is risk of imminent physical danger. Care must be taken to keep the situation contained to prevent escalation of the violence or threat and avoid damage to the reputation of someone potentially falsely accused.

1.3.12 Domestic Violence

The State of Idaho does not tolerate domestic violence. The State of Idaho offers support and assistance referrals to employees who are victims and disclose concerns or request help (DHR Statewide Policy, Section 8: Domestic Violence).

Disclosures

Disclosures may be made in writing or verbally to supervisors, administrators, or HR.

When an incident involves employees from more than one state agency, agency heads will ensure that appropriate responses to the situation are coordinated.

Confidentiality

The state recognizes and respects an employee's right to privacy. The employee's disclosure will remain confidential unless there is a threat to the safety of the individual or other employees in the workplace. Whenever possible, the employee will be given notice of necessary disclosures.

Resources

Referral information will be provided to employees, which may include the following:

- Local and State resources for domestic violence victims
- Advocacy and legal services
- Medical and counseling services
- Building security or local law enforcement agencies
- Employee Assistance Program (EAP)
- Idaho Council on Domestic Violence and Victim Assistance (<https://icdv.idaho.gov/>)

Safety

When necessary, HR and the supervisor will work with the employee to develop an individualized workplace safety plan. The safety plan may include, but is not limited to, the following measures:

- Screening telephone calls
- Setting an alternate work schedule
- Arranging an escort to and from parking areas
- Working with building security or local law enforcement to enforce restraining orders or orders of protection on state property
- Relocating an employee's workspace to a more secure area
- Saving any threatening emails or voicemails

Time Off

Time off will be in compliance with Idaho Code, DHR rules, and DEQ policies. Employees may be asked to present court orders before leave is granted.

The following types of leave may be used, as applicable:

- Compensatory time
- Sick or vacation leave
- Family and Medical Leave Act (FMLA)
- Unpaid leave

Court Orders

Employees are encouraged to disclose the existence of court orders for protection from abuse or harassment to their supervisor and HR staff. Under no circumstances will these orders be placed in an employee's personnel file. The orders will be placed in a separate file in HR.

All individuals who apply for and obtain a protective or restraining order which lists DEQ locations as being protected areas must provide to their supervisors, administrator, and HR staff a copy of the order.

Work Performance

When an employee has performance problems as a result of domestic violence, DEQ will develop a workplan with the employee to assist them in meeting performance expectations.

Nothing in this policy alters the authority of DEQ to establish performance expectations, counsel employees, impose discipline, reassign duties, place an employee on leave, or take other action as necessary.

Information or documents pertaining to an employee's involvement in a domestic violence situation will be kept separately from the employee's personnel records.

In addition, any employee who uses any state resources, including but not limited to phones, pagers, facsimile machines, mail, email, vehicles, or credit cards at any time or place to commit domestic violence will be subject to corrective or disciplinary action up to and including dismissal.

Retaliation

There will be no retaliation resulting from an employee making a complaint, reporting an incident of domestic violence, or otherwise asserting rights or responsibilities under this policy or relevant laws.

Agency Responsibility

In response to an employee's notification of a domestic violence situation, HR staff will be responsible for coordinating discussions with agency legal counsel, building security, and/or local law enforcement.

1.4 Personal Conduct

1.4.1 Dress and Personal Hygiene

Dress standards require that the employee's clothing and appearance be neat, clean, in good condition, safe, and non-disruptive in the workplace. All employees are expected to dress professionally, maintain professional personal conduct, and exercise personal hygiene in a manner consistent with the nature of work performed and within reasonably-accepted limits of the community and the setting within which work is performed.

DEQ strives to ensure the comfort and safety of staff and visitors by encouraging a fragrance-free environment.

1.4.2 Punctuality/Attendance

Employees must maintain punctual attendance per their established schedule. When an employee is unable to report to work as scheduled, they will follow their supervisor's established notification procedures before the absence.

1.4.3 Work Area

The work environment should promote mutual respect, be kept clean and safe, and support applicable safety programs.

1.4.4 Religious Expression

In accordance with state and federal law, DEQ will reasonably accommodate employee religious practices in consultation with the HR. Employees may freely exercise their religious beliefs as long as doing so does not infringe upon workplace efficiency or the rights of others.

1.4.5 Solicitations

Solicitations and related staff time during working hours will be limited to only those endorsed by the State of Idaho (e.g., State Employees Charitable Giving Campaign, state-sponsored insurance programs, Red Cross blood draws). Employees may use regular paid time to attend state-endorsed solicitation events. Employees attending non-state endorsed solicitations must do so on their lunch, break, or using other leave time.

1.4.6 Smoking

Smoking, including electronic cigarettes, is restricted to designated smoking areas and at least 20 feet away from entrances to buildings. Regional administrators are authorized to designate smoking areas for their facilities.

Time spent away from the workstation smoking is considered a rest break. All rest breaks are discretionary and governed by DEQ policies (see section 0).

1.4.7 Employee Organizations

Employees shall be protected in their right to form, join, and assist an employee organization or to refrain from any such activity.

Employee organizations have the right to reasonable access to state offices for meeting space and use of bulletin boards as long as it does not interfere with the efficient administration of state business or employee performance during working hours.

1.5 Personal Use of Department Resources

1.5.1 Time and Equipment

Employees shall not conduct personal business during work time and shall not use DEQ facilities, equipment, materials, mail, supplies, and electronic communications and systems for personal use or outside employment except as outlined below.

Employees or their agents or relatives shall not accept, lease, rent, sell, or purchase DEQ equipment or materials.

1.5.2 Telephone Usage

Brief local calls may be made from DEQ telephones. Long-distance calls are allowed only under the state's Travel Policy when work related or when charged to personal credit cards or collect.

1.5.3 Electronic Communications

Access to email and the internet via state equipment is a privilege provided to DEQ employees. DEQ supports the use of email, the internet, and mobile devices to further the mission of DEQ and to enhance the ability of DEQ employees to provide effective and efficient service to our customers. Users are expected to observe all laws, regulations, department policies, and Idaho Technology Authority (ITA) policies pertaining to email, the internet, and mobile devices and to refrain from activities that may be deemed inappropriate, offensive, or abusive to others, either inside or outside DEQ.

It is the responsibility of DEQ employees to conduct themselves in a professional manner, recognizing their actions reflect on the reputation and integrity of state government and all state employees. Employees may occasionally use DEQ email, internet, computers, and

equipment for individual, nonpolitical purposes on their personal time, if such use does not violate the terms and conditions of department and ITA policies. Personal use privileges can be restricted if DEQ deems it necessary. DEQ employees have no right of privacy in the use of DEQ equipment (e.g., phones, computers, laptops, tablets, mobile devices) and are advised that email, viewed websites, and other electronic means of communication and research are monitored and are subject to state document retention and public record policies (ITA Policies P1040, P1050, and P1060).

1.5.4 State Vehicle Use Overnight

State vehicles must be returned to the office each night. With administrator approval, an employee can take a state vehicle home when the trip begins or ends outside of regular business hours and the employee doesn't drive past work to arrive at their destination. Outside of these situations, it requires prior director approval.

1.6 Conflict of Interest

1.6.1 Impartiality in Performing Official Duties

Employees are expected to act impartially in performing official duties and not give preferential treatment to any outside organization or individual. Any activity performed in the course of employment that might have the appearance of impropriety or preferential treatment of family, relatives, significant other, etc., is prohibited (see [*Idaho Ethics in Government Manual*](#)).

1.6.2 Disclosure Requirement

Any time a real or potential conflict exists between an employee's public duty and their private interest, outside activities, or employment, the employee must disclose the conflict in writing to the DEQ director at the earliest opportunity and, if possible, before acting upon the conflict or potential conflict. Only the director is authorized to waive this written disclosure requirement.

1.6.3 Withdrawal from Conflict

Employees should withdraw from any matter coming before them in the course of their outside activities, employment, or volunteer work if the outside organization is seeking official action from, doing business with, or conducting activities regulated by DEQ. For example, if any employee is a board member of an organization that is bidding on a department contract, the employee must withdraw and refrain from having interest in the contract or from voting or making decisions or recommendations concerning that contract. The employee must also disclose the conflict in writing to the DEQ director.

1.6.4 Outside Activities

Employees must critically assess outside activities. Endeavors, with or without remuneration, that may be construed to be a conflict of interest with department operations or programs or which could have the appearance of impropriety are prohibited.

Likewise, employees should refrain from statements or actions that detract from DEQ's effective operations. While a diversity of opinion is expected and encouraged in the decision-making process, employees should refrain from making public statements that conflict with department decisions and positions once they have been made. The courts balance the free speech interests of public employees as citizens against the interests of government agencies in promoting the efficiency of the public services they provide. An employee should consult their supervisor or a deputy attorney general to assess whether they should refrain from a specific activity or statement that may conflict with department interests.

1.6.5 Compensation from Outside Sources

Employees may not accept compensation from outside sources for doing their DEQ job. Employees shall not accept payment from the public, associations, corporations, or governmental entities for appearances or services given in the course of their official duties. Employees shall not profit directly or indirectly from public funds under their control.

Gratuities

Employees may not directly or indirectly ask, accept, or receive any gift, favor, service, loan, gift certificate, or entertainment which might reasonably be interpreted as influencing the performance of their official duties. Trivial benefits not to exceed \$50 (Idaho Code § 18-1256(5)(c)).

Contracting

Employees must not have a private interest in any contract, grant, or other written agreement prepared or approved by them in their official capacity.

Employees may not contract with DEQ or with another department or entity within state government. To prevent the appearance of impropriety in DEQ contracts, employees should refrain from disclosing insider, proprietary, or confidential information to family, friends, or business associates.

1.6.6 Outside Employment

DEQ neither encourages nor objects to employees engaging in outside employment. However, such employment must not do the following:

- Conflict with the best interests of DEQ or the employee's responsibilities or hours of work
- Involve activities that would constitute a conflict of interest or have potential for a conflict of interest

An employee may accept outside employment with an employer who provides contract services to DEQ, is regulated by DEQ, or provides services to entities regulated by DEQ provided the following are true:

- The nature of the outside employment is clearly unrelated to the services contracted for or to the activities regulated by DEQ
- The employee has no opportunity to influence the relationship between the outside employer and DEQ
- The employee's duties within DEQ do not directly involve controlling, governing, or making decisions or recommendations concerning services provided for in the contract

Service on Boards and Committees

Employees shall not accept or serve in any policy-making position or office of an organization, board, or commission in which an opportunity for conflict of interest might arise between the activity and DEQ employment, except upon written approval of the director.

Written Approval

Prior to accepting or continuing outside employment or serving on a board or commission where questions of conflict of interest or propriety may potentially be raised, an employee must obtain advance written approval of the DEQ Outside Employment Form or Outside Activities Form by the director. Written approvals for outside employment may be re-evaluated periodically (see HR forms on the intranet).

Outside employment or activities that do not pose a potential conflict of interest, do not require any prior notification or approval.

Elimination of Conflict/Appeal to Director

When an employee has received written approval to engage in outside employment or other activities but that employment or activity impairs the employee's ability to perform, interferes, or creates a conflict of interest, the employee may be notified in writing to modify or cease the outside employment or activity within 10 working days of receiving the notice.

1.6.7 Nepotism

No employee will work under the direct chain of command of a supervisor who is a spouse, child, parent, brother, sister, or the same relation by marriage.

1.6.8 Cohabitation and Romantic Relationships

Cohabitation of and/or relationships between employees and their supervisors or others holding positions in the direct chain of command or others in a position of authority are forbidden. The possibility of intentional, unintentional, or perceived abuse of power should always be strongly considered in such relationships. The presence of married couples within DEQ may necessitate DEQ taking action to manage or eliminate potential conflict of interest.

1.7 Political Activities

Classified employees retain the right to otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise the neutrality, efficiency or integrity in the employee's official duties (Idaho Code § 67-5311). DEQ reserves the right to evaluate, on an individual basis, whether or not an employee is acting in accordance with this policy.

1.7.1 Rights

Employees wishing to participate in any political activities should do so outside normal business hours. Employees wishing to attend any activities during normal business hours should follow the process for requesting time off. Examples of such activities may include, but are not limited to:

- Voting in an election
- Expressing their personal opinion on political issues and candidates
- Taking an active part in support of a candidate in partisan or nonpartisan elections.
- Being a member of a political party or organization and participate in its activities
- Serving as an elected convention delegate
- Voluntarily contributing to political parties or candidates
- Taking an active part in political organization management
- Participating in the nonpartisan activities of a civic, labor, or similar organizations
- Displaying a political button, poster, or picture
- Attending a political convention, rally, or other political gathering
- Signing a political petition as an individual

1.7.2 Limitations

Classified employees may *not* do the following:

- Demand political contributions from other state employees

- Use their official authority or influence to bring about any nomination or election to public office
- Be a candidate and hold an elective partisan office

Employees who encounter activities or situations not addressed above are advised to request clarification from HR to avoid possible improprieties or legal action to themselves and/or DEQ.

1.8 Employee Files

1.8.1 Personnel Files

Official HR files will be maintained by the HR Office. An employee, a supervisor in the chain of command, or a person authorized by the employee in writing may review their HR file. Requests must be made to HR.

No information or document will become part of an employee's HR file without the employee's knowledge. Employees requesting information to be placed in their HR file must obtain approval from their supervisor.

Employees can request in writing that anything contained in their HR files be removed, or they may make a written rebuttal to any portion they believe is inaccurate, irrelevant, or incomplete and have the rebuttal added to their HR file. The director or their designee will be responsible for approving or disapproving requests for removal of information.

1.8.2 Employee Personnel Action Documents

Each employee must be provided with a notice of every HR action affecting their status, pay, tenure, or other terms and conditions of employment (IDAPA 15.04.01.220.03).

1.8.3 Employee Medical Files

Due to Health Insurance Portability and Accountability Act (HIPAA) privacy regulations, medical information must be maintained in the HR electronic document management system (EMS) files only. Necessary employee medical records will be maintained and kept separate from HR personnel files within EMS. Access to the employee's medical files must be controlled by HR who will determine what information is to be given to supervisors on a "need-to-know" basis and with employee consent.

1.8.4 Employment Reference Checks

Supervisors will obtain and evaluate job-related background information concerning potential hires before a formal employment offer is extended. Background information will be gathered through conducting thorough reference checks with current and former employers and/or other professional references. HR will verify educational degrees and/or certifications, educational institution accreditation, and driver's license status when required of the position. HR will also conduct a criminal records check. Criminal records will be assessed based on the

requirements of the position, business necessity, the nature and gravity of the offense or conduct, and the time that has passed since the offense or conduct and/or completion of the sentence (Title VII of the Civil Rights Act of 1964).

Due to potential liability, all reference information requests should be referred to HR. HR may provide public information about present or former employees to include state employment history, classification, pay grade, longevity, gross salary, salary history, and work location. Other job-related information must not be released unless the request is accompanied by the written consent of the prospective employee.

For reasons other than reference checks, employment verification for prior and existing employees shall be forwarded to the State Controller's Office (SCO) or appropriate governing body.

Employee Files

With regard to employee files, the State of Idaho is considered one employer. When an employee seeks a transfer or promotion between agencies, the destination agency's hiring department shall be entitled to examine the employee's official service file and performance information before the hiring decision is made (IDAPA 15.04.01.220.04).

Letters of Recommendation

If a supervisor wishes to provide a letter of recommendation for a former or existing employee, they must ensure all statements made are job-related, accurate, truthful, and substantiated by existing documentation. Supervisors are expected to work with HR to ensure letters of recommendation are accurate and appropriate.

1.9 Nondiscrimination

Equal employment opportunity is the law. In accordance with state and federal laws and executive orders, it is DEQ's policy not to discriminate against applicants or employees on the basis of race, color, national origin, religion, age, gender (includes gender identity and sexual orientation), disability, and veteran status (unless under other than honorable conditions). All personnel decisions will be based on characteristics related to valid job requirements and individual performance (IDAPA 15.04.01.021).

Applicants for employment may file discrimination complaints with HR, the Idaho Human Rights Commission, and/or the US Equal Employment Opportunity Commission.

2 Staffing and Recruitment

2.1 General Requirements

Positions in classified service must be filled using the state system in accordance with DEQ's nondiscrimination policy. A Position Action Request form is required when filling a vacant classified position, reclassifying a vacant classified position, deleting or establishing a new classified position, or hiring a state temporary position.

DEQ administrators are responsible for structuring positions within their organization. It is the responsibility of all supervisors and staff to be aware of significant changes in a position's responsibilities and make appropriate requests to update and reevaluate the position/classification in coordination with the DEQ Human Resource Office.

2.1.1 Employment Eligibility

Form I-9s

Upon being hired, all employees must complete an employment eligibility verification form I-9 from the US Department of Homeland Security, US Citizenship and Immigration Services, within three business days of their hire date. Citizenship of the United States cannot be used as a prerequisite condition for employment with DEQ.

Licenses/Certifications

Employees must keep current any professional, occupational, or trade license; certificate; permit; or occupational registration required to perform assigned duties (IDAPA 15.04.01.190.01.p). Some licensures and certifications are not required for a position, but demonstrate staff are trained, qualified, and competent in performing or overseeing job duties. A list of licensures and certifications approved for reimbursement by the agency will be maintained by HR. Any required or approved professional license or certification must be noted in the DEQ Position Description. Fees associated with maintaining and renewing professional licensure and certification while employed by DEQ may be reimbursed when licensure or certification is a requirement for the position or provides value when executing the duties of the position as described in the list of approved licensures and certifications. To promote employees to obtain approved licensures and certifications, study materials and/or training may be reimbursed up to \$1,000. Fees associated with initial testing/exam, registration, or licensure will not be reimbursed. Application fees to transfer licenses or certifications to the State of Idaho will not be reimbursed.

Age Requirements

It is DEQ's usual practice not to employ persons who are less than 18 years old. Child labor laws allow DEQ to hire persons less than 18 years old on a temporary basis under the guidelines contained in the Fair Labor Standards Act (FLSA).

Due to liability issues, persons under 18 years of age may have restrictions on driving state vehicles.

Independent Contractors

DEQ may use independent contractors if they meet the criteria as a contractor (IDAPA 15.04.01.050 and the IRS at www.irs.gov/taxtopics/tc762.html). When using state-established contracting services for anything less than \$2,500, administrators can work directly with the DEQ Financial Office and the contracting company. If over \$2,500 or setting up a contract with a prior DEQ employee, administrators must consult with DEQ HR and Financial.

Dual Employment within State Service

Prior approval from all appointing authorities (DEQ director and the director of any other state agency employing the individual) is required for dual employment within state service. An employee may accept employment in any educational program under the State Board of Education or the Board of Regents of the University of Idaho, provided such employment is conducted outside their normal DEQ work hours (IDAPA 15.04.01.026; Idaho Code §67-2508).

2.2 Recruitment

HR is the designated contact in recruitment issues. All recruitment advertising must be coordinated through HR. Recruitment of human resources to meet current or anticipated needs is a cooperative effort between the regions, divisions, and the HR Office.

2.2.1 General Requirements

HR shall coordinate all activities associated with the testing and registration process, including availability of hiring lists, removal of names, extension of hiring lists, etc. with DHR (IDAPA 15.04.01.101–111).

2.3 Position Classifications

DEQ management will consult with HR to determine the appropriate classification of department positions. HR will make the final determination on classifications. The supervisor will review all position descriptions and make any needed changes at least every 5 years and before refilling a position.

2.4 Selection Process and Use of Eligibility Registers (Hiring Lists)

2.4.1 Hiring From Top 25 Available Candidates

Appointments from a hiring list must be made from the top 25 available eligible candidates (IDAPA 15.04.01.110). Persons eligible for vacant positions by virtue of lateral transfer, demotion, or reinstatement may be interviewed and considered along with candidates from the hiring list.

The DEQ Human Resource Office encourages hiring supervisors to interview all qualified candidates for a position. The DEQ Human Resource Office also recommends that a minimum of at least three applicants be interviewed when a hiring supervisor is faced with fiscal and time constraints.

2.4.2 Veterans Preference

Preference must be given to qualified veterans in initial appointment and retention for classified positions.

Veterans who have a current service-connected disability of 30% or more must be offered an interview when their final score on the hiring list places them within the top 25 qualified candidates. If more than 10 veterans with this level of disability place in the top 25 qualified scores of a hiring list, at least 10 must be offered an interview (IDAPA 15.04.01.102.02–03).

2.5 Minimum Qualifications Specialties

Minimum Qualifications (MQ) specialties are additional skills or experience beyond the minimum requirements necessary to qualify for a classification. Not all positions in a classification may require the same MQ specialty areas. Position announcements ask candidates to provide information on their qualifications for the specialty. Requested MQ specialties (by position) not already identified for a classification must be reviewed and approved by the DEQ Human Resource Office.

2.6 References

The State of Idaho employment application provides for reference checks. Information on the application is subject to verification. Any false, misleading, or omissions of information may result in refusal to hire, promote, or transfer or if already employed, disciplinary action. DEQ reserves the right to contact previous employers, educational institutions, and licensing bodies for verification of employment, skills, abilities, and quality of job performance. DEQ will also review education credentials, driver's license status, and criminal history information. The hiring supervisor or the DEQ Human Resource Office will obtain a signed release from the applicant. It is the responsibility of the hiring supervisor to ensure the previous employment reference check portion has been completed before making an offer of employment.

Information obtained in this process will be confidential. Questions asked must be limited to information necessary for the employment decision and may not violate state or federal law. Reference checks will be conducted on applicants being considered for hire, promotion, or transfer.

2.7 Interview Expenses

Administrators are authorized, within their budgets and limitations of the state's Travel Policy (see the [State Travel Policy](#)), to pay interview expenses of job applicants.

2.8 Appointments, Reinstatements, and Transfers

2.8.1 General Requirements for Appointments

All appointments must be confirmed in writing by the hiring supervisor, giving the starting date and time, classified title, salary, probationary period (if applicable), and any other items specific to the appointment, including moving expenses. Salaries must be consistent with the DEQ Compensation/Workforce Management Plan and hiring supervisors must consult with HR before discussing salary offers with the candidate. All offer letters must be reviewed by the administrator and HR before delivery to the potential hire.

2.8.2 Limited-Service Appointments

Classified positions expected to be of limited duration due to funding or the nature of the position or project are designated as limited service. The designation of the position must be identified before the announcement (IDAPA 15.04.01.120).

Memorandum of Agreement

Before the effective date of appointment, the administrator and potential employee must enter into a memorandum of agreement describing the non-career nature of the position.

Supervisors will be required to submit updates and/or renewals at least every two years (see HR forms on the intranet; IDAPA 15.04.01.120.03).

2.8.3 Temporary Appointments (Nonclassified)

1. Temporary appointments are limited to 1,385 hours of work in any 12-month period for any one state department. This limit applies regardless of a change in position or classification within DEQ. The 1,385-hour limit applies to hours worked and does not include leave time (IDAPA 15.04.01.122).
2. Documentation demonstrating that the appointee meets minimum qualifications for the position must be provided to the DEQ Human Resource Office.
3. Time spent as a temporary employee *may* count toward the probationary period for a classified position if an employee changes from temporary to classified status in the same classification. Temporary time *does* count toward an employee's credited state service.

2.8.4 Acting Appointment to a Position

Under certain conditions, an appointing authority may authorize an acting appointment of an employee in a classified position to another classified position of a higher pay grade.

Notification must be provided to the DEQ Human Resource Office, which will in turn notify the DHR administrator on or before the effective date of the appointment (IDAPA 15.04.01.129).

An employee selected for an acting appointment must have permanent status and meet the minimum qualifications for the classification being appointed to (typically verified by completion of an application or resume review).

Acting appointments are limited to the period of time necessary to fill the vacancy, but no longer than 1,040 hours of credited state service unless specifically extended by the DHR administrator. Hours spent in an acting appointment shall be credited toward the probationary period if the employee is subsequently appointed or promoted to the classification (IDAPA 15.04.01.130 and 01.150.06).

For any credited state service which an employee serves in a classification in a formal acting capacity, they shall receive the salary for the classification as though they had actually been promoted (IDAPA 15.04.01.131).

2.8.5 Reinstatements

Under certain conditions, a current or former employee may be appointed to a classification in which they held permanent status or to another classification of equal or lower pay grade (IDAPA 15.04.01.124). For information on salary upon reinstatement, see IDAPA 15.04.01.72.05. For information on probationary periods, see IDAPA 15.04.01.150.

2.8.6 Lateral Transfers

Lateral transfers occur when an employee changes from one position to another in the same classification or to another classification in the same pay grade. DEQ may transfer an employee at any time from one position to another in the same classification and/or pay grade (IDAPA 15.04.01.125). For information on salary upon transfer, see IDAPA 15.04.01.72.06. For information on probationary periods, see IDAPA 15.04.01.150.

Voluntary Transfer

A voluntary transfer occurs when an employee is transferred at their request or with their concurrence under the following circumstances:

- From one position to another in the same classification
- To a position in a different classification in the same pay grade
- To a different work location while retaining the same PCN

Involuntary Transfer

If the transfer of an employee is to be made as a result of a management decision, the action may need to be considered an involuntary transfer and processed in compliance with DEQ's Due Process Policy (IDAPA 15.04.01.200).

A transfer from one position to another in the same classification and within the same work location to perform similar duties will not constitute an involuntary transfer.

Lateral Transfer Opportunities

To ensure employees have an opportunity to compete for open positions, hiring supervisors will work with the DEQ Human Resource Office to post job opportunities to the DEQ intranet when appropriate.

If a transfer involves a change in classification, the employee must demonstrate possession of the minimum qualifications for the new classification and/or take a qualifying examination. The Human Resource Office will coordinate this procedure.

Salary increases for lateral transfers will follow the DEQ Compensation/Workforce Management Plan.

Transfer of Accrued Leave

An employee's accrued vacation and sick leave will transfer from one state agency to another. Compensatory time for FLSA-exempt employees (straight time compensatory accrual) will be forfeited upon transfer to or from another state agency. FLSA-covered employees (time-and-a-half accrual) will be paid for accrued compensatory time at the time of transfer to a another agency (Idaho Code §67-5328).

2.9 Underfills

An underfill is an appointment to a position at a lower classification than the position is established. Underfill requests will be processed by the DEQ Human Resource Office. Typical reasons for an underfill include allowing for a training period longer than a typical probationary period or to compensate for the lack of an adequate candidate pool for the position at the full working level (IDAPA 15.04.01.013.12). Once an individual has been hired into an underfill, the supervisor is required to submit an underfill training plan to the DEQ Human Resource Office within 30 days.

2.9.1 Completion of Underfill

Before reclassifying an individual in an underfill to the higher level classification of the position, the supervisor must provide HR documentation showing the employee has met the following criteria:

- Attained permanent status in the underfill classification by having satisfactorily completed any promotional or entrance probationary period
- Satisfied minimum qualifications for the higher level classification, including applicable MQ specialty areas
- Demonstrated they can satisfactorily perform the duties of the position at the level at which it is classified, as determined by written documentation from the supervisor (see HR forms on intranet)

Salary increases for completion of an underfill are considered in accordance with the DEQ Compensation/Workforce Management Plan.

Underfill time frames are different from probationary periods and may vary between individuals within classifications. The underfill training plan is assessed on an individual basis. The underfill training period may last up to 24 months. Underfills lasting beyond this period may be perceived as a classification issue.

2.10 Doublefills

Doublefilling is the assignment of two employees to the same position, usually for a training period. Doublefill situations that will not be completed within 30 days must be approved by DHR. Requests to doublefill are initiated by contacting the DEQ Human Resource Office. Once approved by the director, the DEQ HRO will notify the Division of Financial Management (DFM).

2.11 Volunteers

When work is performed voluntarily (with no compensation), the supervisor responsible for the work is subsequently responsible for the volunteer and will ensure appropriate training is provided, policies and procedures are explained, and hours tracked are reported to the DEQ Human Resource Office. Current DEQ employees are not allowed to voluntarily perform the type of work they were hired to perform (see volunteer forms on the DEQ intranet).

2.12 Demotions

The director or their designee may demote an employee for the following reasons (IDAPA 15.04.01.179):

Non-Disciplinary (IDAPA 15.04.01.181)

- When the position is reclassified to a classification allocated to a lower pay grade in accordance with assigned responsibilities (IDAPA 15.04.01.067)
- When requested by the employee and approved by the director or designee

Disciplinary (IDAPA 15.04.01.182)

- For cause (see section 6)

2.13 Probationary Periods

2.13.1 General Requirements

Every new appointment or promotion to a classified position shall be made on a probationary basis. Probation serves as a working test period to provide DEQ an opportunity to evaluate a probationary employee's work performance and suitability for the position. At the completion

of the probationary period, a performance evaluation is done, and the supervisor determines if the employee satisfactorily completed the probationary period (IDAPA 15.04.01.150–154).

Entrance Probation

Entrance probation is the probationary service required of an employee at the time of their original appointment or any subsequent appointment to state classified service excluding reinstatement and transfer. The duration of an entrance probation is 1,040 hours of credited state service.

Promotional Probation

Promotional probation is the probationary service required when an employee is promoted, the duration of which is 1,040 hours of credited state service.

Voluntary Probation

Voluntary probation must be agreed upon between an employee and the director or designee for interagency employment actions such as reinstatement, transfer, or voluntary demotion. A voluntary probation is not to be used for employment actions within the agency. The probationary period is negotiable but may not exceed 1,040 hours of credited state service. A voluntary probation memorandum of agreement must be signed before the effective date of the appointment.

2.13.2 Extension of Probation

Upon written request demonstrating good cause by the supervisor, the director or designee may extend the probationary period of an employee for an additional specific period not to exceed 1,040 hours of credited state service. Extension must occur before an employee has worked 1,040 hours and may only be extended one time.

2.13.3 Separation during Probationary Period

If a probationary employee does not serve satisfactorily, the supervisor will work with HR and obtain approval from the director or the director's designee. The supervisor will at least provide a coversheet performance evaluation indicating unsatisfactory performance in order to process the failure-to-complete-probation separation within 30 days after the expiration of the probationary period. The supervisor will also provide notification of separation from employment. A copy will be provided to DHR.

Unsatisfactory Performance during Entrance or Voluntary Probation

- An employee who does not serve satisfactorily during the entrance or voluntary probationary period must first be given the opportunity in writing to resign without prejudice. An employee who fails to resign may be terminated without assigned cause and without the right to file for problem solving or appeal.

- A notice of termination for unsatisfactory service must be provided to the employee no later than 15 calendar days before the effective date of termination, unless there are extenuating circumstances.

Unsatisfactory Performance during Promotional Probation

- Intra-Agency: If an employee on promotional probation does not meet performance expectations, they shall be returned to a position in the classification which they hold permanent status or to another classification in the same pay grade for which the employee meets minimum qualifications. If the employee refuses to accept the position, it shall be considered a voluntary resignation (IDAPA 15.04.01.153.02).
- Inter-Agency: The employee may voluntarily demote to a vacant position in any classification they held permanent status in state career service. However, the employee must meet the current minimum requirements for that classification. If more than one option exists for demotion, the employee should be placed in the higher paid position, but the specific assignment is up to the appointment authority. If no position is available for the voluntary demotion option, the employee may be laid off and they may request their name be placed on a register with reemployment preference rights (IDAPA 15.04.01.153.03).

2.14 Resignation/Separation

2.14.1 Notice

An employee may resign at any time. Employees who voluntarily terminate their employment are asked to give written notice of the resignation to their immediate supervisor as far in advance of the effective date as possible. A written notice may include the reason for the resignation and should include the effective date. A resignation is effective at the time designated by the employee without need for written or advance notice or acceptance of the resignation by DEQ. DEQ suggests the employee provide a minimum of two weeks notice for resignation so DEQ can plan for and implement the transition from employment. Supervisors are responsible for ensuring all state property, keys, and P-cards are returned. Terminating employees will account for all state-owned equipment or furnishings before the final pay date (IDAPA 15.04.01.126.01).

2.14.2 Rescission and Reinstatement

Once an employee has submitted a resignation, reinstatement is at the discretion of DEQ. DEQ may, but is not required to, allow an employee to rescind a resignation before its effective date (IDAPA 15.04.01.126.02).

2.14.3 In Lieu of Dismissal

An employee may resign in lieu of being dismissed for cause (IDAPA 15.04.01.126.03).

2.14.4 Use of Paid Leave Before Resignation

The employee's supervisor must authorize the use of any accrued leave used between the last day worked and the effective date of the resignation. Anything over two weeks of leave must be approved by the division/regional administrator. The maximum amount of paid leave allowed to be used before resignation date is two months. Use of sick leave taken after submission of a resignation needs to continue to follow the DEQ Sick Leave policy.

2.14.5 Separation upon Failure to Return to Work

Except for those employees on authorized leave or placed on a register with reemployment preference prescribed by IDAPA 15.04.01.241.02, an employee who has not returned to work within five working days after approved paid or unpaid leave or release by their physician shall be considered as having voluntarily separated. Such separation will be treated as a voluntary resignation and the employee shall remain eligible for reinstatement (IDAPA 15.04.01.124). Written notification of their separation/resignation shall be mailed to the last known home address. Any objections by the employee to the notice must be received within five working days of receipt of the notice, or acceptance of the separation/resignation will be presumed. If objections are received within the timeline, a disciplinary separation (dismissal) or other formal disciplinary action may be pursued (IDAPA 15.04.01.190 and IDAPA 15.04.01.244).

2.15 Layoff Policy

This policy is to be used in conjunction with IDAPA 15.04.01.140–147.

2.15.1 Conditions for Layoff/Reduction in Force (RIF)

An appointing authority may lay off an employee whenever necessary due to the following reasons:

- Shortage of funds or work
- Reorganization
- The end of a limited service appointment
- An employee's failure to complete interagency promotional probation when demotion options are not available
- The abolishment of one or more positions

2.15.2 Layoff Organizational Units

Layoffs are by classification of position and confined within designated and approved layoff organizational units. The DEQ layoff organizational units are as follows:

1. Each regional office (except the Boise Regional Office as provided in 2 and 3 below)
2. The entire State Office and Boise Regional Office for all general classified positions (except analysts, scientists, and engineers)

3. Each separate State Office division, the Director's Office, as well as any corresponding functionally-equivalent program in the Boise Regional Office for analysts, scientists, and engineers

Specifically, and consistent with its current geographic and programmatic organizational structure, DEQ's designated layoff organizational units are as follows:

- Coeur d'Alene Regional Office (including Kellogg satellite office)
- Lewiston Regional Office
- Twin Falls Regional Office
- Pocatello Regional Office
- Idaho Falls Regional Office
- State Office and Boise Regional Office (for general classified positions other than analysts, scientists, and engineers)
- Director's Office
- Air Quality Division and its corresponding Boise Regional Office functional area for analysts, scientists, and engineers
- Surface and Waste Water Division and its corresponding Boise Regional Office functional area for analysts, scientists, and engineers
- Drinking Water Protection and Finance Division and its corresponding Boise Regional Office functional area for analysts, scientists, and engineers
- Waste Management and Remediation Division and its corresponding Boise Regional Office functional area for analysts, scientists, and engineers
- Technical Services Division and Air Quality, Surface and Waste Water, Drinking Water Protection and Finance, Waste Management and Remediation, and the Boise Regional Office for analysts, scientists, and engineers

2.15.3 Calculation of Retention Points

The DEQ Human Resource Office will calculate retention points (IDAPA 15.04.01.141).

Reduction in force may be limited to or specifically exclude employees appointed under selective certification, for bona fide occupational qualifications, or appointed to a classification with minimum qualification specialties. Inclusions or exclusions must include or exclude all incumbents of the classification appointed under similar selective certification or the same option or minimum qualification specialty and must be approved in advance by DHR.

An appointing authority may petition the DHR administrator to exclude an individual or individuals from a reduction in force whose retention may be required to meet DEQ's mission-critical needs. Requests must provide a documented rationale, and exclusions must be approved.

Limited-service appointments are defined by the project, program, or function for which the appointments were made. When a limited-service project is completed or funding concluded,

the limited-service appointee is separated from state service as a layoff. However, limited-service appointees have no reemployment preference and shall not displace other regular permanent or limited-service staff via voluntary demotion in lieu of layoff.

2.15.4 Initial Considerations

An administrator, in consultation with the HRO, shall identify potentially affected classifications and employees within the layoff unit and consider possible transfer or demotion options for affected employees.

2.15.5 Transfers

An employee in a position being abolished or reduced in hours will be given the opportunity to transfer to a vacant position in the same classification, if one exists, or to the position in the same classification held by the employee with the fewest retention points within the layoff unit. If no vacancy exists and the employee whose position is being abolished has the fewest retention points, the demotion option shall be considered.

If the transfer of an employee whose position is being abolished or reduced causes another employee to be displaced, the displaced employee shall be notified of their layoff rights and options.

2.15.6 Moving Expenses

An employee accepting transfer as an alternative to layoff may be afforded moving expenses in compliance with the provisions outlined in the [Board of Examiners Moving Policy](#).

2.15.7 Disability Layoff

If an employee becomes disabled and is unable to fully return to work after 12 weeks of absence during any consecutive 52-week period or when accrued sick leave has been exhausted, whichever is longer, the employee's position may be declared vacant and the employee laid off unless otherwise prohibited by state or federal law. The 12-week period of absence need not occur consecutively. The individual's name shall be placed on a reemployment preference register when the DHR administrator has been notified by the physician that the employee is able to return to work. Conditional releases will be considered in accordance with the Americans with Disabilities Act as Amended (ADA) (IDAPA 15.04.01.241.02).

3 Compensation and Benefits

3.1 Compensation

3.1.1 Salary Administration Policies

DEQ has adopted and filed with DHR the Compensation/Workforce Management Plan.

When determining employee compensation, administrators will take into consideration current state and department policy, DHR rules, internal equity issues, legislative intent, comparative demand, budget status, and financial impact.

All requests require written justification and must be submitted through the DEQ Human Resource Office for approval and routing for financial review and final approval by the director. The director will determine if there is adequate funding for all salary increases and may freeze, limit, or terminate such increases. Supervisors will consult with the DEQ Human Resource Office when making salary decisions.

Temporary/Nonclassified Appointments

To the extent possible, each nonclassified position will be paid a salary or wage comparable to classified positions with similar duties, responsibilities, training, experience, and other qualifications (Idaho Code §59-1603).

Transfers (Interdepartmental and Intradepartmental)

Lateral transfers (change in positions within the same pay grade) are encouraged when an employee desires the opportunity to gain experience in a different field/discipline. Lateral transfers may receive an increase in pay when it is determined to be appropriate based on the Compensation/Workforce Management Plan.

Reclassifications

When an employee's position is reclassified upward, DEQ promotional policy will apply. *This includes reclassifications to complete an underfill.* When an employee's position is reclassified downward, the supervisor and administrator may protect the employee's salary up to the maximum of the new pay grade in consultation with the DEQ Human Resource Office. When a classification is refactored and reassigned downward, the employee's salary will be protected to the maximum within the new pay grade (IDAPA 15.04.01.072.08).

Reclassifications of employees are allowed **except** for the following situations:

- It is a move of more than one pay grade;
- The move is from a non-supervisory position to a supervisory position; and/or
- The move is to a completely different classification series (i.e., Financial Specialist to an Analyst 2).

In these situations, DEQ will use a competitive promotional process.

Acting Appointments

When acting appointments are made to existing classified positions, DEQ's promotional salary policy applies.

Promotions

When an employee is promoted, their salary may be adjusted up to a maximum of 10%, dependent on budget, the Compensation/Workforce Management Plan, and other salary administration considerations as noted above, unless otherwise approved by the director and supported with written justification. The salary in the new position must be at least the minimum of the new pay grade. This includes promotions as a result of a delete-to-establish action (IDAPA 15.04.01.072).

Demotions

When an employee is demoted for disciplinary reasons, the employee's salary may be adjusted downward as directed by the supervisor and administrator, in consultation with the Human Resource Office, with approval of the director. The Human Resource Office will review the employee's salary for department-wide equity within the new lower classification and pay grade.

3.1.2 Merit Increases, Temporary Merit Increases, Salary Equity Increases, and Bonuses

Requests for bonuses, merit increases, and temporary merit increases will be made in writing by using the form(s) on the intranet (DHR Statewide Policy, Section 1: Compensation). See HR forms on the DEQ intranet.

Merit Increases

Merit increases will be distributed based on consideration of various factors including, but not limited to, performance levels, location in pay grade, geographical location, marketplace considerations, workload, accomplishments, and the employee's role and responsibilities within DEQ. To qualify for merit pay increases, an employee's service must be meritorious and documented in a performance evaluation rated "Achieves Performance Standards" or better and completed within the 12 months before the effective date of the increase. For standard merit increases (e.g., Changes in Employee Compensation), a matrix will be developed applying such factors listed above (IDAPA 15.04.01.071–073; Idaho Code §67-5309B). The director retains the right to make exceptions to the DEQ matrix on a case-by-case basis.

Note:

- Employees on entrance probation are ineligible for merit increases.
- Merit increases are limited to the current approved DEQ matrix.
- Merit increases cannot be made retroactively.

Temporary Merit Increases

A temporary merit increase is a short-term, nonpermanent increase to an employee's base pay. The director may grant a temporary merit increase to recognize and compensate an employee for short-term work assignments.

Parameters.

The following conditions apply to all temporary merit increases:

- Employees receiving a temporary merit increase must acknowledge in writing that the increase is temporary, and their salary will be returned to the previous rate of pay at the completion of the temporary merit increase period.
- A temporary salary increase is generally no more than six months or 13 pay periods in duration.
- Temporary merit increases cannot be made retroactively
- Any permanent merit increases will be calculated and applied to the employee's base rate of pay without consideration of the temporary merit increase

Effect of Separation.

Employees who terminate employment while a temporary merit increase is in effect will be paid at the temporary rate through their last day of work. Accumulated leave payoff (unused vacation, compensatory time, if eligible) and sick leave conversion to insurance at retirement while receiving a temporary merit increase are calculated at the base pay rate.

Salary Equity Increases

A salary equity increase is an advancement of an employee's compensation within a pay grade based upon factors such as internal and external market demands, market increases and/or to correct an inequity among positions of comparable value in the agency (e.g. equivalent knowledge, skills, abilities effort, and responsibilities (Idaho Code §67-5309B(3))). Employees must have a current performance evaluation with an overall rating of "Achieves Performance Standards" or better and may not be on entrance probation or a temporary employee.

Bonuses**Performance**

A performance bonus is a one-time, lump-sum payment to an employee to recognize exemplary service (Idaho Code §67-5309D).

1. Eligibility.

To qualify for a performance bonus, all of the following criteria must be met:

- The employee must have a performance evaluation rated "Achieves Performance Standards" or better and completed within the past 12 months.
- DEQ must document, in writing, justification for the performance bonus and retain justification in the employee's personnel file.

2. Approval Authority.

The director may approve performance bonuses within the following parameters:

- The director may authorize up to 20% of employees (based on Full-Time Position (FTP) authority) a performance bonus. Any bonuses to employees beyond 20% require prior approval from DFM and DHR.

- The director may authorize one or more performance bonuses to the same employee during a fiscal year. However, regardless of the number of performance bonuses granted, the maximum total amount any one employee may receive is \$2,000 per fiscal year, unless approved by the Board of Examiners.

Employee Suggestion

The director may reward an employee for suggestions or recommendations which resulted in taxpayer savings as a result of cost savings or great efficiencies to DEQ or the State of Idaho. The bonus award may be up to 25% of the cost savings, not to exceed \$2,000, unless approved by the Board of Examiners. Employee suggestion bonuses require a current performance evaluation of "Achieves Performance Standards" or higher.

Recruitment /Retention

Recruitment/retention awards are lump sum bonuses paid in order to recruit and retain qualified employees, particularly in positions designated as critical or difficult to fill. Employees who receive recruitment/retention bonuses are expected to maintain employment with the agency for a specified period of time. Such compensation is paid in the form of a one-time lump sum bonus after at least six months of satisfactory performance. Employees who voluntarily separate employment with DEQ prematurely are required to repay all or part of the bonus.

Qualifying Criteria.

- A recruitment/retention bonus cannot be given in lieu of a performance bonus
- For recruitment bonuses, the employee must be a new appointment to the state (transfers, demotions, promotions, reinstatements, and rehires are ineligible)
- Recruitment bonuses are limited to one per employee
- Retention bonuses are limited to one per employee per fiscal year
- The maximum amount of any recruitment/retention bonus is \$5,000
- Before granting the bonus, the DEQ Human Resource Office must submit written documentation justifying the recruitment/retention award and the proposed memorandum of agreement to DHR and DFM for review and approval
- Details of the recruitment bonus must be negotiated with and agreed upon with the job applicant before that individual beginning work
- The applicant/employee must sign a recruitment/retention bonus memorandum of agreement

Bonus Limits

Bonus limits may only be waived with approval from the Idaho Board of Examiners for special or unusual circumstances (Idaho Code §67-5309D).

3.1.3 Hours of Work, Payroll, and Overtime

Workweek

The workweek for employees of DEQ is 12:01 a.m. Sunday through 12:00 a.m. Saturday.

The employee's work schedule within the normal workweek may be altered to avoid accruing overtime. For example, an employee may take 4 hours off Wednesday because they worked 4 extra hours on Tuesday *of the same workweek*.

Agency Business and Core Hours

DEQ's business hours are from 8:00 a.m. to 5:00 p.m. for the timezone each office is located. The core hours are between 6:30 a.m. to 6:30 p.m., Monday through Friday. Flexible, compressed, and telecommuting schedules must be set within the core hours (see section 3.1.4, Alternative Work Schedules).

Time Reporting

FLSA regulations require that all hours worked must be recorded on the employee's time sheet to be approved by the appropriate supervisor. Employees are expected to manage their time and work their required scheduled hours.

Order of Leave Taken

The sequence in which various leaves will be taken is (1) Compensatory Leave, (2) On-Call Compensatory Leave, and (3) Vacation Leave, provided this action does not cause the employee to lose vacation leave due to maximum accrual limits.

Paychecks

The SCO promotes mandatory direct deposit of paychecks and online pay stub viewing. If an exception is granted for direct deposit, hard copy paychecks will be mailed by the SCO on payday to the employee's mailing address on file. An advance of pay is prohibited. Contact the DEQ Human Resource Office for more information.

Time Worked for More than One State Department

The State of Idaho is considered a single employer for determining the number of hours worked. If an employee works for more than one state department, the employee's combined service will be subject to applicable laws and DHR rules governing overtime (IDAPA 15.04.01.262).

Travel Time

This policy is used in conjunction with the State Board of Examiners Moving Policy. Also, DEQ travel directions are located on the intranet Financial Office page.

Travel time between home and the employee's official workstation is a normal incident of employment and not considered hours worked. Travel time between home and the airport is

considered hours worked. Employees are required to travel by the most cost-effective and safe means available.

Employees required to work away from their assigned reporting location shall have such travel time considered as hours worked, except during regular meal periods. Work assignments which require an employee to stay over a weekend or overnight(s) qualify for expenses, but at no time are compensated beyond hours worked. Compensatory time for travel is granted in accordance with the State of Idaho Travel Policy and the FLSA regulations 29 CFR 785.38–41.

Overtime (Compensatory Time)

Overtime worked is defined as time worked on holidays and time worked in excess of 40 hours in a period of 168 consecutive hours (7-day workweek) (Idaho Code §67-5302(20)). In correlation with the federal FLSA, Idaho Code defines the designation of FLSA-exempt and covered employees and the rate at which employees may earn compensatory time for overtime.

FLSA-Exempt (Straight Time)

Employees designated as FLSA-exempt (with the exception of “executive” exempt) as provided in the FLSA and Idaho Code §67-5302 shall receive compensatory time off at the rate of 1 hour for each 1 hour of overtime worked (straight time). FLSA-exempt employees are ineligible for cash compensation for overtime work, with the exception that professional and administrative employees may receive cash payment if authorized by the State Board of Examiners for overtime accumulated during unusual or emergency situations.

FLSA-Covered (Time and One-Half)

FLSA-covered employees (not designated as exempt according to the FLSA executive, professional, or administrative guidelines) shall receive cash compensation or compensatory time at the rate of 1.5 hours for each overtime hour worked.

Executive

Classified and nonclassified employees who are designated as executive, as provided in Idaho Code §67-5302, shall be ineligible for cash compensation or compensatory time for overtime work.

Specific Requirements

Approval

All overtime must be approved by the employee's immediate supervisor in advance of being worked and be documented on the employee's time sheet. As working on a holiday is considered overtime, prior approval from the supervisor is required.

Limitations

No employee will accrue more than 80 hours of compensatory time without prior approval of the administrator. In no case will an employee covered by the FLSA be allowed to accrue more than 240 hours of compensatory time.

Discharge of Accrued Compensatory Time

Accrued compensatory time must be used before vacation leave, provided that this does not cause the employee to lose vacation leave due to the maximum accrual provision of Idaho Code §67-5334. In addition, compensatory time must be used before leave without pay.

FLSA-Exempt (Straight Time)

With prior supervisor approval, an FLSA-exempt employee may take compensatory time off to the extent such time has been accrued. Accrued compensatory time will be forfeited when an employee transfers to another state department or upon separation from state employment. Compensatory time lost at the time of transfer or separation cannot be reinstated at a later date.

FLSA-Covered (Time and One-Half)

FLSA-covered employees (time and one-half) accrue compensatory time unless authorized otherwise by the supervisor. The timekeeping system automatically defaults to accrue.

Compensatory time which has been earned during any one-half fiscal year but not taken by the end of the succeeding one-half fiscal year will be paid in cash on the first payroll following the close of the fiscal year. Accrued compensatory time must be paid in cash at the time of transfer to another state department or upon separation from state service.

On-Call Duty

On-call duty is when an employee is required to carry a pager, cellular phone, or to communicate with DEQ where the employee may be reached if needed to work, and the employee can use the time effectively for personal purposes (IDAPA 15.04.01.010.29). On-call duty has priority over outside employment. Employees who are on-call will earn one hour of on-call time for every day of on-call status and two hours for holidays. Time spent on on-call status cannot be recorded as time worked, nor will compensatory time or paid overtime accrue during on-call status (IDAPA 15.04.01.261.01).

Employees who are required to be at their official workstation are considered to be working rather than on-call. Any time actually worked while in on-call status (that is, time spent on telephone calls or providing department services) will be recorded as hours worked.

Special Circumstances

In some circumstances, such as the role of environmental liaison, where the requirement to be on-call is an added task/duty to the job based on an employee's expertise, employees forfeit on-call earned (OCE) accrual in exchange for a conditional merit (see Environmental Liaison Conditional Merit Form on the DEQ intranet).

Limits and Discharge of On-Call Hours

No employee may accrue over 40 hours of OCE without prior approval of the administrator. OCE must be used within six months of being earned. Each administrator will be responsible for the proper use of OCE and for adherence to the 40-hour limits.

Accrued OCE will be forfeited upon separation from DEQ.

Rest Breaks

DEQ allows two rest breaks away from the work environment (one in the first half of the workday and another in the second half of the workday) for a *maximum* of 15 minutes each during any one workday. Rest break time is not cumulative and cannot be added on to an employee's lunch break or used to reduce the workday.

Lunch Breaks

Employees are permitted to take a lunch break. Lunch breaks may need to be coordinated with others in the work area and must be approved by the supervisor if different from standard one-hour.

Breaks for Nursing Mothers

Employees shall be provided reasonable break time to express milk for their nursing child for one year after the child's birth each time such employee has need to express the milk. The breaks are unpaid if taken outside the regular rest breaks allowed in policy. A place for expressing the milk, other than the bathroom, shall be provided that is shielded from view and free from intrusion of coworkers and the public.

3.1.4 Alternative Work Schedule and Telecommuting Policy***Introduction***

DEQ schedules and deploys its workforce to achieve outstanding customer service and optimal productivity and to provide leadership in promoting environmental quality. Alternative work schedules (AWSs) offer the ability to develop working arrangements that will contribute to higher productivity, enhance staff morale, assist in recruitment and retention of employees, and reduce commute-based traffic congestion and air pollution.

AWSs provide a means of responding to rapidly-changing factors impacting today's workforce and to enable staff and management to better serve customers, meet department goals, and balance personal and professional responsibilities. Flexibility in the workplace can provide a way to extend service hours; manage people, time, space, and workload more effectively, efficiently, and responsibly; and aid in DEQ's ability to recruit and retain valuable employees.

Alternative Work Schedule Definitions

AWSs include flexible work schedules (FWSs), compressed work schedules (CWSs), telecommuting, and/or reduced hour work schedules (RHWSs).

- **Flexible Work Schedule (FWS)**— Flextime allows for flexible scheduling arrangements that permit variations in starting times, lunches, and departure times around set department business hours (8 a.m.–5 p.m. for the timezone each office is located). FWS is a work schedule where a full-time employee (who works 80 hours a pay period, 40 hours a week, 8 hours a day) flexes their schedule between DEQ core hours of 6:30 a.m. and 6:30 p.m., Monday through Friday.
- **Compressed Work Schedule (CWS)**— CWSs allow for flexible scheduling arrangements whereby a 40-hour workweek may be shortened to fewer than five 8-hour days, excluding Saturday and Sunday. A CWS is a work schedule where a full-time employee who works 80 hours a pay period, but may work fewer than 10 workdays in that pay period. Each CWS has set days and set hours of work centered within department core hours of 6:30 a.m. and 6:30 p.m. Once approved, the schedule remains the same until changed.
- **Telecommuting** — Telecommuting is paid employment performed away from the principal office at an alternate work location for all or part of the work week.
- **Reduced Hour Work Schedule (RHWS)**—RHWSs are work arrangements where a full-time employee who works 80 hours a pay period alters their schedule to work less than the standard 8-hour day, 40-hour workweek Monday through Friday.

Nonexempt Employees (those who accrue overtime at time and one half) are covered by the requirements of the FLSA and are subject to overtime pay for time worked in excess of 40 hours in a week. Work beyond 40 hours a week is subject to additional compensation under overtime policies. Therefore, nonexempt employees may have an AWS as long as it does not alter the total number of hours worked in a normal workweek.

Exempt Employees not covered by the time-and-one-half overtime requirements of the FLSA (those who accrue overtime as straight-time) have flexibility in scheduling their workweeks as they are exempt from certain overtime and recordkeeping requirements. For example, exempt employees may flex their hours to work 50 hours in one week and 30 hours the following week for a total of 80 hours in a pay period. Since the State of Idaho operates on the basis of a 40-hour workweek, compensatory time must first be accrued in week one of the pay period, then used as compensatory time taken in week two.

Overall Policy and Guidelines

The director or their designee may authorize alternative working schedules for employees according to the following guidelines and limitations:

- Requests for AWS must be written and demonstrate how the AWS will meet all of the following conditions:
 - Benefit external/internal customers and provide workplace coverage

- Enable the employee to meet their work objectives
- Ensure that the employee's program/group continues to meet work objectives
- It is DEQ's primary mission to provide quality services in an efficient and effective manner that is customer-driven, taxpayer-sensitive, and consistent with the need for administrative offices to remain open to the public from 8 a.m. to 5 p.m., Monday–Friday. All AWS will be structured with this in mind.
- Generally, any position involving portable or flexible work may be considered for an AWS. Employees interested in an AWS must complete an Alternative Work Schedule Request Form and submit it to their supervisor. Management will decide whether a position and/or employee meet the criteria, considering any additional costs or impact to the organization. An AWS is a job assignment, not a benefit of employment, and no employee is entitled to an AWS simply by virtue of their employment with DEQ.
- All arrangements must be in writing to ensure that management and employees have a mutual understanding of the specifics of the schedule. The work schedule for employees on an alternative schedule will be communicated to internal and external customers and be posted in their Outlook calendar as well as copied to the employee's personnel file.
- All alternative work arrangements must conform to the overtime, recordkeeping, and provisions of the FLSA and Idaho labor law for staff covered by those provisions.
- Due to position budgeting and the need to fill allocated full-time positions on a full-time basis, DEQ reserves the right to limit or restrict the number and duration of RHWS.
- Lunch breaks are permitted and may need to be coordinated with others in the work area and must be approved by the supervisor if different from the standard one-hour.
- Rest breaks may not be foregone in order for an employee to leave earlier in the day.
- When requesting a CWS, the maximum number of hours scheduled per day may not exceed 10 hours.
- The director or their designee may suspend or adjust flex schedules to ensure equity.
- Supervisors and employees participating in the program may withdraw or be withdrawn from the program as necessary. Some reasons for withdrawal include inability to fulfill the AWS requirements, lack of beneficial results for DEQ, deteriorating performance of work assignments, transfer to a different position, etc. The administrator may review an AWS periodically and revoke FWS at any time as deemed necessary.
- Employees on flexible schedules may be required to return to a regular schedule during a holiday week or otherwise adjust their schedules in order to keep paid hours to a maximum of 40 hours in any one standard workweek (Sunday 12:01 a.m.–Saturday midnight).

Telecommuting

Telecommuting refers to paid employment performed away from the principal office at an alternate work location for all or part of the work week. Telecommuting can be a desirable option for employees, and if utilized properly, can be a useful tool for the state. DEQ follows

the [DHR Executive Branch Statewide Telecommuting Policy](#); and, in addition to the statewide policy, has the following specific agency requirements. (Revised January 6, 2022)

Authority

The director or their designee has the sole authority to approve a telecommuting arrangement.

Telecommuting Schedule

The standard telecommuting schedules will be for specific days up to a maximum of three days per week at the alternative work location. Employees may also apply to telecommute occasionally for special projects. If the employee needs to work in the field or come into the office on a telecommuting day, they must work with their supervisor to determine if telecommuting on a different day is acceptable when telecommuting part-time. This should be done with the general understanding that having some days in the office takes priority over having days at the alternative work location. Employees cannot use telecommuting in lieu of vacation time. While on vacation, employees can occasionally work if required and approved by their supervisor and HR in advance. Supervisors will consider the need for in office coverage when approving and coordinating telecommuting schedules.

Telecommuting more than three days per week can be considered for specific positions using the DEQ Position Telecommuting Assessment form and with approval by the director or designee.

Determining Appropriate Positions for Telecommuting

Telecommuting is a privilege that DEQ may grant to employees. DEQ has the discretion to determine which positions may or may not work well for telecommuting and who, within these positions, may be allowed to use telecommuting. Not being approved to telecommute is not a reflection upon the employee or their value to DEQ. Agency needs and the services we provide to the public should always be the overriding factor in making these decisions. When an employee requests telecommuting, the supervisor will complete or review and update a Position Telecommuting Assessment Form to determine the feasibility of telecommuting for that position. This form will be filed with the Position Description Form (PDF) for each position and updated when the PDF is updated.

Employee Selection Criteria

Employees interested in telecommuting should use the Telecommuting Employee Self-Assessment to determine if it would be a good option for them. Supervisors will evaluate the following employee characteristics when determining if a telecommuting schedule is a good fit for the employee:

- Is self-motivated and flexible
- Is knowledgeable about their job and can work independently
- Has demonstrated reliability
- Is well organized and has good time management skills
- Functions well with little direct supervision

- Is willing and able to interact through video conferencing to actively participate on team projects and staff meetings
- Has an appropriate ergonomic alternative work site that includes privacy and lack of distractions

Standards of Conduct, Work Performance, and Professionalism

- Employee and supervisor will complete a Work Plan Form and turn it into HR. Employees will be required to demonstrate that work performed at the alternate work location is completed in an efficient and measurable manner. Employees must track their tasks daily and provide reports to their supervisor on an approved frequency of at least weekly showing their progress on work projects. Supervisors and administrators will review reports to ensure work is progressing and being completed. Supervisors will meet with their employees at least monthly to review progress of work projects for telecommuting.
- Telecommuting must not inhibit the ability of staff to work together on projects. Employees working remotely will use video conferencing tools or report to the office to participate in meetings.
- New employees are encouraged to work in the office for a period of time to become acquainted with supervisors and fellow employees. Supervisors can determine the best situation for on-boarding new employees based on the position.
- Employees who work at an alternative work location may be required to provide their personal cell and/or landline phone number(s) to their agency and Information Technology Services for purposes of utilizing the DUO authentication system for logging into the network and communicating for work purposes. State-issued cell phone can be used if positions require them for other purposes such as safety and field work. State-issued cell phones will not be purchased for the purpose of working remotely. With regard to the public at large, employees who work in an alternative work location are required to have their office phone forwarded to their personal or state-issued phone or return voicemails in a timely manner on the days they are working at that site. The definition of “timely” is dependent upon the circumstances of the call and the position. For some calls, timely could be measured in minutes and others in hours. Employees will need to use their best judgement to ensure appropriate customer service is provided. The voicemail on their personal phone will be professional and make it obvious who the caller is contacting. When answering the personal phone during business hours, the employee will identify themselves to provide a professional experience for customers.
- On a non-telecommuting day when the telecommuter is normally working at the central work place, including periods of severe weather or emergency closing, the telecommuting employee may not choose to work at the alternate work site unless supervisor approval is received in advance.
- If the internet, applications, or equipment are not working at the alternative work location, the employee will need to return to the office or code leave as appropriate.

- DEQ-owned property, such as computers and telecommunications equipment, may be used by employees at their alternate work location, provided the equipment is used only for official business. DEQ will not pay for alternative work location furniture, chairs, computer stands, etc.

Forms Required:

- **DEQ Position Telecommuting Assessment.** To be completed by the supervisor with the employee's assistance as needed, reviewed by the administrator and HR, and kept on file with the PDF for each position. This form should be reviewed and/or updated whenever the PDF is reviewed and/or updated.
- **DEQ Telecommuting Application.** To be completed by the employee. This form needs to be reviewed and approved by the supervisor, administrator, HR, and director or their designee. Out-of-state telecommuting is only approved in rare circumstances. If an out-of-state request is made, additional approvals are required from DHR, DFM, and SCO and may result in additional workers' compensation insurance. This form will be kept in the personnel file. If the request for telecommuting is a part of an Americans with Disabilities Act (ADA) reasonable accommodation request, additional approval is required from the Division of Human Resources. In cases of ADA accommodation, this form will be kept in the medical file.
- **DEQ Telecommuting In-State Agreement.** To be completed by the employee. This form needs to be reviewed and approved by the supervisor, administrator, HR, and director or their designee, and kept in the personnel file.
- **DEQ Telecommuting Work Plan.** To be completed by the employee and supervisor. The work plan will be sent to HR to be kept in the employee personnel file.
- **DEQ Additional Telecommuting Day(s) Request.** To be completed when a telecommuting agreement is already in place and the employee wants to add additional day(s).

3.2 Benefits

With the exception of holiday leave (HOL), no paid leave may be used if the addition of paid leave plus hours worked results in excess of 40 hours in any one standard workweek (Sunday 12:01 a.m.–Saturday midnight).

3.2.1 Eligibility

To be eligible for benefits coverage, an employee must work 20 hours or more per week *and* expected to work at least five consecutive months (Office of Group Insurance Eligibility Statement).

If an employee is not originally expected to meet the criteria for benefits eligibility, but their status changes, vacation, and sick leave will be awarded retroactively. Retirement contributions must be submitted to PERSI (both the state and employee's contribution) from day one of eligibility. Holiday pay is not awarded retroactively.

3.2.2 Holiday Leave

The State of Idaho recognizes 11 legal holidays. If the legal holiday occurs on a Saturday, the preceding Friday is granted; if it falls on Sunday, the following Monday is granted. Holidays are listed in Idaho Code §67-5302(15).

A holiday is a day of exemption from work granted to nonexecutive, nonexempt, benefits-eligible employees during which employees shall be compensated as if they actually worked.

Employees classified as executive exempt are entitled to 11 paid holidays per year. If such an employee works on 1 of the official holidays, then the employee may take an alternative day off but shall not receive additional compensation.

All classified employees of like classification, with the exception noted above, will be treated equitably with reference to holiday leave. An employee must receive some paid leave, wages, or salary for the pay period in which the holiday occurs to receive the holiday benefit (IDAPA 15.04.01.073.04.b).

Employees on flexible schedules may be required to return to a regular schedule during a holiday week or otherwise adjust their schedules in order to keep paid hours to a maximum of 40 hours in any one standard workweek (Sunday 12:01 a.m.–Saturday midnight).

Holiday Eligibility While on FMLA Leave Without Pay

To avoid inequities with regard to FMLA during holiday weeks, if an employee records all hours for the week as FMLA “Leave Without Pay,” no hours will be coded on the holiday. Therefore, the holiday will not be counted toward the 12 weeks of allowed family medical leave.

Holiday Leave Calculation

A full-time employee shall receive holiday pay in accordance with the ratio of hours the employee works on a regular workweek. A part-time employee shall be paid for a holiday in the same ratio as 8 hours is to a 40-hour workweek, which for calculation purposes converts to 0.20 times hours normally worked to a maximum of 8 hours. Overtime hours shall not be considered in the calculation of holiday pay.

If a part-time employee’s hourly schedule is so irregular that a normal workweek cannot be determined, the holiday benefit is in the same proportion that the hours the employee works during a week in which a holiday occurs relate to 40, to a maximum of 8 hours of holiday pay.

Holiday pay is limited to a maximum of 8 hours per holiday. Appointing authorities may adjust work schedules to ensure internal consistency.

3.2.3 Vacation Leave

Eligible employees will earn vacation leave and be eligible to take vacation leave in accordance with Idaho Code §67-5334, 59-1603, and §59-1606 (DHR Statewide Policy, Section 2: Vacation Leave). Vacation is a period of exemption from hours worked.

Eligibility

Employees must meet the eligibility criteria to qualify for benefits in order to accrue vacation time. Some employees are ineligible for vacation. Ineligible employees include any of the following:

- Employees who regularly work less than 20 hours per week
- Employees who are in nonpay status (i.e., on unpaid leave of absence)
- Temporary employees who are hired to work less than five consecutive months, regardless of number of hours worked per week

An employee who is originally not expected to work five months, but who does so, is entitled to receive vacation leave benefits retroactively in accordance with the accrual rates within this policy and Idaho Code.

Accrual

Employees earn vacation leave for every hour worked or paid (with the exception of paid compensatory leave). For example, employees earn vacation leave while on paid vacation or paid sick leave.

DHR designates job classifications as covered (by the FLSA), professional, administrative, computer worker, or executive. The amount of vacation an employee accrues per qualifying paid hour depends on that designation.

In addition, employees are limited in the amount of vacation leave which can be accrued. Those limits are also dependent upon the designation (covered, professional, administrative, computer worker, or executive). Table 1 reflects the amount of vacation accrued per employee type and corresponding accrual limits. Employees and their supervisors are responsible for managing their vacation time when reaching accrual limits.

Table 1. Vacation accrual rates and limits. Idaho Code §§67-5334

Employee Designation	Hours of State Service	Accrual Rate Per Hour	Accrual Rate per Pay Period for Full-Time Employees^a	Accrual Limit
Covered	0–10,400	0.04615	3.7 hours	192 hours
Covered	10,401–20,800	0.05769	4.6 hours	240 hours
Covered	20,801–31,200	0.06923	5.5 hours	288 hours
Covered	31,201 or more	0.08077	6.5 hours	336 hours
Administrative/Professional/Computer Worker	0–10,400	0.05769	4.6 hours	192 hours
Administrative/Professional/Computer Worker	10,401–20,800	0.06923	5.5 hours	240 hours
Administrative/Professional/Computer Worker	20,801–31,200	0.08077	6.5 hours	288 hours
Administrative/Professional/Computer Worker	31,201 or more	0.08077	6.5 hours	336 hours
Executive	0–10,400	0.09615	7.7 hours	200 hours
Executive	10,401–20,800	0.09615	7.7 hours	240 hours
Executive	20,801–31,200	0.09615	7.7 hours	288 hours
Executive	31,201 or more	0.09615	7.7 hours	336 hours

^a Amounts are rounded to the nearest tenth.

General Requirements

Employees are required to obtain approval from their supervisor before using vacation leave. Supervisors should approve vacation leave with reasonable consideration for the employee's needs and desires, work requirements, and when it will least interfere with the efficient operation of DEQ.

Use Prohibited Before Accrual

Vacation leave cannot be taken in the same pay period in which it is earned. For example, an employee cannot use the 3.7 hours earned during the current pay period until a subsequent pay period.

Use Limitations

Vacation leave may not be used if it will result in pay in excess of the employee's normally-scheduled workweek. For example, if a full-time employee plans Friday off, but works 9 hours per day on Monday through Thursday of that week, the employee's timesheet would reflect:

	SUN	MON	TUE	WED	THUR	FRI	SAT	TOTAL
ACT	—	9	9	9	9	—	—	36
VAC	—	—	—	—	—	4	—	4
								Total: 40

Use When Sick

Employees may elect to charge time off work due to illness to accrued vacation leave rather than to accrued sick leave. However, in the event an employee is ill and has no accrued sick leave, other accrued leave balances, including vacation leave, must be used before the employee receiving leave without pay (unless the employee is on approved FMLA leave or is absent from work due to a work-related illness or injury).

Use for Emergency Conditions

If an employee is unable to report to work because of severe weather, civil disturbances, loss of utilities, or other related emergency conditions, and the work facility has not been declared closed or inaccessible by the governor or their designee, the employee is permitted to use accrued vacation leave to cover the period of absence from work.

If an employee on approved vacation leave becomes ill, the employee may substitute sick leave if they provide a doctor's note.

Use in Conjunction with Other Leave Types

The sequence in which various leave will be taken is (1) compensatory leave, (2) on-call leave, and (3) vacation leave. Supervisors may grant exceptions to this standard order if necessary to keep the employee from exceeding maximum vacation accrual limits.

Use Parameters for Executive Employees Only

Employees designated as executive shall be treated on a salary basis and are to report their time on an exception basis. All absences from work in excess of one-half day shall be reported and charged to the appropriate leave category. Absences of less than one-half day are not to be recorded. (Revised 11/17)

Effect of Transfers on Accrued Vacation

An employee's accrued vacation leave transfers with the employee when transferring from one state agency to another with no break in service. Saturday and Sunday are not considered to be a break.

Effect of Separation on Accrued Vacation

When an employee leaves state service, all accrued and unused vacation leave will be paid to the employee in their final paycheck. Vacation payout is calculated based on the employee's permanent hourly rate of pay on the effective date of separation.

3.2.4 Sick Leave

Employees shall earn sick leave and be eligible to take sick leave in accordance with Idaho Code §67-5333, 59-1603, §59-1605, and IDAPA 15.04.01.240 (DHR Statewide Policy, Section 3: Sick Leave).

Eligibility

Employees must meet the eligibility criteria to qualify for benefits in order to accrue sick leave. Some employees are ineligible for sick leave. Ineligible employees include any of the following:

- Employees who regularly work less than 20 hours per week
- Employees who are in nonpay status (i.e., on unpaid leave of absence)
- Temporary employees who are hired to work less than five months, regardless of number of hours worked per week.

An employee who is originally not expected to work five months, but who does so, is entitled to receive sick leave benefits retroactively in accordance with the accrual rate below.

Accrual

Sick leave shall accrue at the rate of 0.04615 hours per hour worked or paid (with the exception of paid compensatory leave).

To calculate sick leave accrual in any one pay period, take the number of hours paid (excluding compensatory time taken) and multiply by 0.04615. For example, an employee who works 80 hours (ACT) in a pay period earns 3.7 hours of sick leave (calculated by multiplying 80 × 0.04615).

Employees earn sick leave while on paid leave (except with compensatory time off).

Sick leave accrues without limit.

Use of Sick Leave

When possible, employees are expected to plan time away from work by notifying their supervisor before the absence. For example, when scheduling a routine doctor's appointment or planned surgery, an employee's supervisor should be consulted in regards to scheduling. Employees are encouraged to schedule doctor appointments when they will be least disruptive to the work day. Employees must use some type of paid leave for these circumstances (e.g., sick, vacation, compensatory time).

If an employee cannot come to work due to an emergency (sick or otherwise) the employee is expected to make every effort to contact their immediate supervisor or follow call-in procedures as established by their immediate supervisor before the beginning of their expected work start time.

Sick leave may only be used in cases of the employee's actual illness or disability or other health reasons necessitating the employee's absence from work or for Employee Assistant Program (EAP) appointments. In addition, an employee may also use sick leave to attend to a family member's medical appointments, serious illness, disability, death, or funeral. Eligibility to use sick leave includes self, spouse, child, foster child, parent, brother, sister, grandparent, grandchild, or the same relation by marriage or legal guardian (IDAPA 15.04.01.240.03). For the specific purpose of sick leave used to attend a funeral, family is extended to include aunts, uncles, nieces, nephews, and first cousins.

Limitations on Sick Leave Use

- Employees may not use sick leave for time off due to adoption or foster care placement unless the child has a medical condition requiring care.
- Sick leave may not be used in lieu of vacation leave.
- If an employee exhausts accrued sick leave, the employee must use other accrued leave balances before receiving leave without pay (unless the employee is on approved FMLA leave or absent due to a work-related illness or injury).
- Sick leave cannot be taken in the same pay period in which it is earned.
- Sick leave may not be utilized if it will result in pay in excess of the employee's normally-scheduled workweek. For example, if a full-time employee calls in sick Monday, then works 9 hours per day on Tuesday through Friday of that week, the employee's timesheet would reflect:

	SUN	MON	TUE	WED	THUR	FRI	SAT	TOTAL
ACT	—	—	9	9	9	9	—	36
SIC	—	4	—	—	—	—	—	4
								Total: 40

Use Parameters for Executive Employees Only

Employees designated as executive shall not use accrued sick leave in less than half-day increments. For example, if an executive employee works for 6 hours and takes the remainder of that day off due to a qualifying illness, no accrued sick leave is used. Conversely, if an executive employee works for 2 hours and takes the remainder of the day off due to a qualifying illness, then 6 hours of accrued sick leave is used.

Managing Sick Leave

Patterns or excessive absences can negatively impact individual performance and DEQ's services. Therefore, a supervisor who suspects an employee is abusing sick leave may, after consulting with HR (IDAPA 15.04.01.240.07):

- Require the employee to provide a doctor's note justifying the absence
- Investigate an employee's suspected sick leave abuse and address any misuse or abuse as necessary

Behaviors or patterns that may indicate misuse of sick leave:

- Before and/or after holidays
- Before and/or after weekends or regular days off
- Reoccur on a specific day (e.g., every Wednesday)
- Continued pattern of maintaining zero, minimal, or level leave balances
- Excessive absenteeism

Any employee who is on approved sick leave and is found to be working at another job, or is otherwise misusing sick leave, shall be subject to disciplinary action up to and including dismissal.

Inability to Return from Medical Leave

Employees off work due to their own or a family member's illness or injury are required to keep DEQ informed as to their health status and intent to return. During that time, sick leave or other accrued leaves may be used.

Required Physician Notes

During the employee's medical leave, DEQ may require updated physician's statements regarding the employee's expected date of return to work. DEQ may, before the employee's return to work, require a physician's statement identifying any restrictions and/or releasing the employee to work.

Employee Unable to Return to Work.

If the employee is unable to return to their regular work duties (with or without accommodation) after 12 weeks or after exhausting accrued sick leave, whichever is longer, the employee may be medically laid off (IDAPA 15.04.01.241.02).

Employees may not use leave without pay or time spent in a light or alternate duty position, to extend the medical layoff date.

Effect of Transfers on Accrued Sick Leave

Accrued sick leave transfers with employees when they transfer from one state agency to another.

Effect of Separation on Accrued Sick Leave

When employees leave state service, all accrued and unused sick leave will be forfeited, except as provided in Idaho Code §67-5333 (i.e., separation due to retirement).

Reinstatement of Sick Leave

If an employee returns to credited state service within three years of separation, all sick leave forfeited at time of separation will be reinstated (Idaho Code §67-5333(1c)).

3.2.5 Workers' Compensation

Employees are advised to notify their supervisor of any potential safety hazard. Employees are responsible for immediately notifying their supervisor if they are involved in an accident or near-miss on state property, in a state vehicle, or during performance of their job duties. If exposed to hazardous substances, employees are advised to notify their supervisor and go directly to a medical provider. It is important that this be done within two hours of exposure.

1. All work-related accidents or injuries that may or do result in physical harm *must be reported to the supervisor before the end of the workday*, whether or not medical care is needed.
2. *The same workday, the supervisor will complete a Supervisors Accident Report Form*, including the corrective action to be taken to prevent similar accidents, and submit to the DEQ Human Resource Office.
3. If medical care has been sought or is anticipated, more than one day of work is missed, or the employee requests to file a claim, a First Report of Injury and Claim for Benefits Form will be completed by the supervisor, be sent to the State Insurance Fund, and a copy submitted to the HR.

For more information, go to the DEQ intranet under HR, Benefits, Workers' Compensation/Injury at Work section.

Use of Leave

In the event of a disability incurred on the job covered by workers' compensation, the employee will be given the choice of either:

- Leave of absence without pay while receiving workers compensation
- Utilizing a portion of accrued sick or other paid leave to supplement workers' compensation to maintain their regular salary; however, the employee will not be required to accept sick leave, vacation leave, or compensatory time off for overtime in lieu of workers' compensation provided by law. Additionally, an employee may not waive their rights to workers' compensation and cannot accept earned leave or other benefits in lieu thereof.

Consult the State Insurance Fund or the DEQ Human Resource Office for leave options (IDAPA 15.04.01.241.01).

3.2.6 Restricted or Light-Duty Assignments

Due to the impact of various laws and regulations upon job duty alterations and reasonable accommodation issues, this policy is not inclusive and is intended only as guidance.

If an employee receives a physician's release to return to work with a duty restriction, the administrator may allow the employee to work temporarily with altered duties in their regular job or in a light-duty assignment.

Each restricted or light-duty assignment should be made on a case-by-case basis after consultation with the DEQ Human Resource Office and in accordance with all applicable rules and laws, including the ADA, the Rehabilitation Act of 1973, the FMLA, and the Idaho Workers' Compensation Law.

3.2.7 Paid Parental Leave

In accordance with the Families First Act, Executive Order 2020-003, eligible employees may use up to eight weeks of paid parental leave due to the birth or adoption of a child for purposes of caring for and bonding with a newborn or newly-adopted child (DHR Statewide Policy, Section 10: Paid Parental Leave).

Paid parental leave will run concurrently with leave under the FMLA, as applicable. Any leave taken under this policy that falls under the definition of circumstances qualifying for leave due to the birth or adoption of a child will be counted toward the 12 weeks of available FMLA leave. An employee will be eligible for paid parental leave even if the employee has otherwise exhausted their FMLA time before the birth or adoption of the child. If an employee becomes eligible for FMLA while on paid parental leave, the employee must apply for and use FMLA.

Eligibility

Eligible employees must meet all of the following criteria:

1. Have been employed with the State of Idaho for at least 12 months during the past seven years (the 12 months do not need to be consecutive)
2. Have worked at least 1,250 hours during the 12 consecutive months immediately preceding the date of the birth or adoption
3. Be a benefit-eligible employee (work more than 20 hours per week and be expected to be employed for more than five months)

In addition, employees must meet one of the following criteria:

1. Be a new parent by childbirth
2. Be the new adoptive parent of a child under the age of 18
3. Be a parent of a child born by a surrogate mother
4. Be an individual seeking to adopt a child after the birth of that child, but the adoption has not yet been finalized.

Use and Compensation of Leave

- Eligible employees will receive a maximum of eight weeks (320 hours for full-time employees) of paid parental leave for the birth or adoption of a child that must be used within 12 weeks after the birth or adoption of a child. Eligible employees working less than full-time will receive a pro-rated portion of paid parental leave corresponding to the percentage of hours they normally are scheduled to work.

- An employee may not receive more than eight weeks of paid parental leave in a rolling 12-month period. Multiple births within twelve months or adoptions do not increase the length of paid parental leave.
- Employees may use paid parental leave continuously for eight weeks or as a predefined reduced work schedule as long as it is used within 12 weeks of the birth or adoption of the child. Employees may not use parental leave intermittently unless approved by their supervisor. If approved for intermittent use of paid parental leave, the leave must be used within 12 weeks of the birth or adoption of the child.
- This provision does not bar individuals under the fourth qualifying reason when the adoption is not finalized, for whatever reason. Adoptive parents are not entitled to use more than eight weeks of paid parental leave in a rolling 12-month period, but are exempt from the continuous leave requirement if the adoption is not final.
- Each week of paid parental leave is compensated at 100% of the employee's salary at the time of the leave. Paid parental leave will be paid on regularly-scheduled pay dates.
- The state will maintain all benefits for employees during the paid parental leave period in accordance with any other paid leave (e.g., paid vacation leave, paid sick leave). Employees will accrue Credited State Service (CSS) while on paid parental leave. If an employee taking paid parental leave is in a probationary status, the employee's probation may be extended the equivalent number of CSS hours as the leave taken.
- Paid parental leave may not be donated to another state employee.

Request and Approval to Use Paid Parental Leave

1. Employees must provide at least 30 days of notice before taking paid parental leave, when foreseeable. Notice will include the anticipated start date and expected duration of the leave. In situations where advance notice is not practicle, the employee must notify the agency as soon as feasible. This ordinarily means the employee provides verbal notification to DEQ within ten business days of the employee knowing of the need for leave.
2. Employees are required to provide legal documentation of the birth or adoption of a child within 30 days of the birth or adoption or as soon as it becomes available. The employee's name must be included as a legal parent on the birth certificate, a legal document establishing paternity, or a legal document establishing adoption. Situations where a legal document cannot be provided at the time of birth or adoption, or within the required time frame or a reasonable time thereafter, will be considered on a case-by-case basis by HR.
3. DEQ must provide a determination to the employee regarding their request to use leave within five business days.
4. Paid parental leave may not be utilized if it will result in excess of the employee's normally scheduled workweek. For example, if a full-time employee plans to work a reduced work schedule but then works in excess of what was planned, the employee is required to reduce the number of parental leave hours coded during that workweek.

That unused paid parental leave can still be used within 12 weeks after the birth or adoption of a child.

5. Employees working for agencies utilizing I-Time will use the following Paid Parental Leave codes:
 - FMP – FMLA Paid Parental Leave
 - PAR – Paid Parental Leave

Use in Conjunction with Other Leave Types

1. **Family and Medical Leave Act.** Paid parental leave will run concurrently with leave under the FMLA, as applicable. Any leave taken under this policy that falls under the definition of circumstances qualifying for leave due to the birth or adoption of a child will be counted toward the 12 weeks of available FMLA leave per a 12-month period. An employee will be eligible for paid parental leave even if the employee has otherwise exhausted their FMLA time. If an employee becomes eligible for FMLA while on paid parental leave, the employee must apply for and use FMLA.
2. **Accrued Leave Benefits.** Employees may utilize accrued sick, vacation, and compensatory leave in accordance with those respective policies. Any leave taken under this policy that falls under the definition of circumstances qualifying for leave due to the birth or adoption of a child will be counted towards the 12 weeks of available FMLA leave per a 12-month period.
3. **Unpaid Leave.** Unpaid leave will be considered in accordance with FMLA and other applicable federal and state laws.
4. **Short-Term Disability.** Employees should contact the Office of Group Insurance for information about short-term disability benefits.
5. **Donated Leave.** Employees are not eligible to receive donated leave while they are receiving paid parental leave but are eligible if parental paid leave is exhausted or not otherwise available.
6. **Other Leave Types.**
 - If a holiday occurs while an employee is on paid parental leave, such day will be coded to holiday pay and will not count towards the employee's paid parental leave entitlement or FMLA hours.
 - If the employee is on paid parental leave when the state authorizes paid administrative leave due to inclement weather and/or an office closure, that time will be recorded as paid parental leave. Administrative leave will not extend the paid parental leave entitlement.

Effect of Separation on Leave

1. Upon separation of employment with the state, employees will not be paid for any unused paid parental leave for which they are eligible.

2. If an employee transfers to another state agency while on paid parental leave, the employee will be eligible to use the remaining hours available to them at their new agency.

Effect of Leave on Probation Status

Employees who are on entrance or promotional probation while taking paid parental leave may have their probationary hours extended equivalent to the amount of paid parental leave taken. HR must initiate a probation extension action through the payroll system immediately upon paid parental leave approval.

3.2.8 Voluntary Leave Donations

With director or their designee's approval, employees may donate accrued vacation or sick leave to an eligible state employee for use as paid sick leave (Idaho Code §67-5334(g)) (DHR Statewide Policy, Section 6: Leave Donations).

Receiving Donated Leave

Eligibility. To receive donated leave, an employee must meet all of the following conditions:

- Be eligible to accrue sick and vacation leave
- Have exhausted all of their accrued leave balances
- Be suffering from a serious illness or disability or have a family member with a serious illness, disability, or death and funeral in the family necessitating the employee's absence from work, or other reasons provided by DHR's Statewide Coronavirus Policy related to use of sick leave
- Not receive in excess of the maximum of 160 hours of donated leave (vacation and sick) per fiscal year

Employees are not eligible to receive donated leave while they are receiving paid parental leave, but are eligible if paid parental leave is exhausted or not otherwise available.

Requesting Donated Leave. An eligible employee who wishes to receive donated leave must communicate the request to their supervisor and HR.

Donating Leave

Eligibility. To donate leave, an employee must meet all of the following conditions:

- Donate a minimum of four hours
- For vacation leave donations, employees must have at least one normal pay period number of hours of accrued vacation leave after the donated leave is deducted (Idaho Code §67-5334(g))
- For sick leave donations, employees must have at least one normal pay period number of hours of accrued sick leave after the donated leave is deducted.

- Must choose vacation or sick leave for each donation form and may not include both sick and vacation on a single request
- Must not exceed the maximum of 80 hours of vacation leave per fiscal year
- Must not exceed the maximum of 80 hours accrued sick leave per fiscal year
- Cannot donate more than a total of 80 hours of vacation and sick leave, combined

Conversion Details

Donated vacation and sick leave will be converted to sick leave on a 1-hour to 1-hour basis and will be paid out at the receiving employee's current salary.

Any unused leave that has been donated to an employee will remain in their sick leave accrual balance until used. Any unused leave cannot be returned to the employee who made the donation.

Financial Obligation

The agency of the receiving employee will assume financial responsibility for all donated leave used by the receiving employee.

Confidentiality

The names of employees donating time will be kept private and will not be provided to the employee who receives the donated leave. This confidentiality is intended to preclude repercussions for employees who do not donate leave as well as for those who do.

The nature of the serious illness or injury causing the employee to request and receive donated leave will be kept private. The employee's name will not be shared with other employees who are being asked to donate leave without the express written permission of the employee requesting donated leave.

3.2.9 Family and Medical Leave Act

FMLA is a federal law which entitles eligible employees to unpaid, job-protected leave under the following qualifying circumstances:

1. For a qualifying health condition of the employee or a family member
2. For the birth or adoption of a child
3. For specific purposes to family members of qualifying military service members (DHR Statewide Policy, Section 4: FMLA Leave)

To qualify for FMLA leave, the employee must meet eligibility criteria, submit a written request, and provide a medical release upon return to work (as appropriate).

In the event an employee does not request FMLA leave for time off work for a qualifying health condition, DEQ may designate the employee's absence as FMLA leave (as appropriate).

This policy is not intended to be all-inclusive. The exceptions and unique situations regarding FMLA benefits are too numerous and complex to address in this policy. Consultation with the DEQ Human Resource Office is required.

Employee Eligibility

An employee must meet the following criteria to be eligible for FMLA leave:

1. The employee must have been employed with the State of Idaho for at least 12 months¹ (the 12 months do not have to be continuous employment). Similarly, the 12 months do not have to be all with one agency. Employees who were on the payroll for any part of a week (even just one day) will be credited with a full week toward their total.
2. The employee must have worked at least 1,250 hours during the 12-month period immediately preceding the leave. These 1,250 hours must be hours worked and do not include paid vacation or sick time, nor periods of unpaid leave during which other benefits (e.g., group health plan, workers' compensation) continued to be provided by the employer.

Quantity of and Allowable Purposes for FMLA Leave

FMLA provides leave to employees for the following six circumstances:

1. Birth and bonding of a child
 - FMLA leave to care for or assist in the care of a newborn is available to all employees as long as they are the parents or legal guardians of the child.
 - An expectant mother may take FMLA leave if their pregnancy makes them unable to work before the birth of the baby. Under the FMLA, pregnancy and prenatal care involve continuing treatment by a healthcare provider and qualify as a serious health condition.
 - All eligible employees are allowed up to 12 weeks (480 hours) of unpaid, job-protected leave. Limitation: An employee's right to take leave for birth and care of a newborn must conclude within 12 months of the birth.
2. Adoption of a child or placement of a child in foster care
 - FMLA leave may be taken for events incident to the placement of a child with the employee for adoption or foster care. This includes, but is not limited to, pre-placement counseling sessions, court appearances, attorney consultations, and care for the adopted or foster child.
 - All eligible employees are allowed up to 12 weeks (480 hours) of unpaid, job-protected leave. Limitation: An employee's right to take leave for placement of a

¹ If an employee has a break in service of more than 7 years, time worked before rehire/reinstatement following that break in service does not count toward the 12-month eligibility requirement (unless the break in service was due to the employee's National Guard or Reserve military service obligations).

child for adoption or foster care, must conclude within 12 months of the birth or placement.

3. To care for a qualifying family member with a serious health condition
 - Qualifying family members are limited to the employee's spouse, the employee's children under 18 years of age, the employee's children incapable of self-care due to a mental or physical disability regardless of age, and the employee's parents with a serious health condition. Care for siblings or in-laws with a serious health condition are ineligible for this provision of FMLA.
 - If an employee requests FMLA leave to care for a qualifying family member, DEQ may require a medical certification stating the need for support or care for the family member's illness, as well as its expected duration.
 - All eligible employees are allowed up to 12 weeks (480 hours) of unpaid, job-protected leave.
4. Due to the employee's own serious health condition
 - All eligible employees are allowed up to 12 weeks (480 hours) of unpaid, job-protected leave.
5. To attend to a qualifying exigency (QE) arising out of the fact that the employee's spouse, parent, son, or daughter is a service member who is "on active duty (or notified of an impending call or order to covered active duty) in support of a contingency operation." QE leave is available to family members of active duty Regular Armed Forces, National Guard and Reserve service members.
 - Activities considered to be a QE may include: Short-notice deployment
 - Military events and related activities (in advance of and during deployment)
 - Childcare and school activities
 - Financial and legal arrangements
 - Counseling
 - Rest and recuperation
 - Post-deployment activities
 - Additional activities agreed upon between the employer and the employee
 - All eligible employees are allowed up to 26 work weeks (1,040 hours) of unpaid, job-protected leave.
 - Agencies may require eligibility verification regarding the QE including DOL form WH-384, the service member's orders, and confirmation from third parties (such as a teacher).
6. To care for a qualified service member who incurred a serious injury or illness in the line of duty while on active duty in the Armed Forces
 - Family members who qualify are limited to covered service member's spouse, parent, child, or next of kin.²

² "Next of kin" refers to the nearest blood relative of the individual, other than the service member's spouse, parent, or child, in the following order of priority: (1) individuals designated in writing by the service member as

- Covered service members include the current members of the Armed Forces (including members of the National Guard or Reserves) or veterans (who were members during the 5 years preceding their injury or illness); who are undergoing medical treatment, recuperation or therapy; are otherwise in outpatient status; or are otherwise on the temporary disability retired list for a serious injury or illness
- All eligible employees are allowed up to 26 work weeks (1,040 hours) of unpaid, job-protected leave during a single 12-month period at any time during the 5 years preceding the date of treatment, recuperation, or therapy.
- If an employee's leave qualifies as both military FMLA and non-military FMLA leave, FMLA military leave shall be designated first.
- Total FMLA leave allowed during the 12-month period is 26 weeks (1,040 hours). (For example, an employee may not, in the same 12-month period, take 26 work weeks of military FMLA leave per this circumstance and also take 6 work weeks of FMLA leave due to circumstances 1–5 described above.)

Definition of “Serious Health Condition”

A “serious health condition” means an illness, injury, impairment, or physical or mental condition that involves one of the following:

- **Hospital Care.** Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity³ or subsequent treatment related to or resulting from such inpatient care.
- **Incapacity Plus Treatment.** A period of incapacity of more than three consecutive calendar days, and any subsequent treatment or period of related incapacity that also involves:
 - An in-person treatment by a health care provider within seven days of the first day of incapacity followed by at least one more in-person treatment within 30 days, unless extenuating circumstances exist; or
 - An in-person treatment by a health care provider within seven days of the first day of incapacity which results in a regimen of continuing treatment under the supervision of the healthcare provider⁴

next of kin for purposes of this provision of the FMLA; (2) blood relatives who have been granted legal custody of the service member by statute or court authority; (3) siblings of the service member; (4) grandparents of the service member; (5) aunts and uncles of the service member; (6) first cousins of the service member.

³ “Incapacity,” for purposes of FMLA, is defined to mean inability to perform one or more of the functions of one's job, attend school, or perform other regular daily activities due to the serious health condition, treatment for that condition, or recovery from that condition.

⁴ Continuing treatment is further defined as either (1) treatment two or more times by a healthcare provider or (2) treatment by a healthcare provider on at least one occasion that results in a regimen of continuing treatment. A regimen of continuing treatment includes, for example, a source of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does

- Whether additional treatment visits or a regimen of continuing treatment are necessary within the 30 day period is to be determined by the health care provider.
- **Pregnancy.** Includes any period of incapacity due to pregnancy or recovery from childbirth.
- **Chronic Conditions Requiring Treatments.** A chronic condition is a condition that:
 - Requires periodic visits (minimum two visits per year) for treatment by a healthcare provider or by a nurse or physician's assistant under a healthcare provider's direct supervision
 - Continues over an extended period of time (including recurring episodes of a single underlying condition)
 - May cause episodic rather than a continued period of incapacity (i.e., asthma, diabetes, epilepsy, etc.)
- **Permanent/Long-term Conditions Requiring Supervision.** This is defined as a period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a healthcare provider (e.g., Alzheimer's disease, a severe stroke, or the terminal stages of a disease, etc.).
- **Multiple Treatments (Non-chronic Conditions).** This encompasses absences to receive multiple treatments by a healthcare provider or by a provider of healthcare services under orders of, or on referral by a health care provider, for restorative surgery or for a condition which would likely result in a period of incapacity if not treated, such as cancer (chemotherapy, radiation, etc.); severe arthritis (physical therapy); and kidney disease (dialysis).
- **Treatment for Substance Abuse.** FMLA leave may only be taken for treatment for substance abuse that is provided by a health care provider or by a provider of health care services on referral by a health care provider. Absence because of the employee's use of the substance, rather than treatment, does not qualify for FMLA leave. An employee may take FMLA leave to care for a covered family member who is receiving treatment for substance abuse as well.

The FMLA is not intended to cover short-term conditions for which treatment and recovery are very brief. Unless complications arise, the following conditions, including but not limited to, generally would not meet the definition of an FMLA serious health condition: common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease.

not include the taking of over-the-counter medications—such as aspirin, antihistamines, or salves—or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a healthcare provider.

Use of Paid Leave

The FMLA only requires unpaid leave; however, the law permits an employee to elect, or the employer to require the employee, to use eligible accrued paid leave which includes sick, vacation, and compensatory time for some or all of the FMLA leave period.

If the employee uses the above accrued paid leave concurrently with FMLA leave, the employee is required to comply with all procedural requirements, such as notice requirements, of the agency's paid leave policies. Failure to do so may result in loss of entitlement to paid leave for the time during which the employee failed to comply with the agency's leave policies, although the employee remains entitled to take unpaid FMLA leave.⁵

Employees on FMLA leave who are concurrently using available sick or vacation time will accrue sick and vacation hours at the same rate as if they were not on FMLA. However, employees utilizing compensatory time (coded "FMC" or "FSC" on timesheets) or unpaid FMLA (coded "FML" or "FSL" on timesheets) do not accrue leave credits.

A bona fide illness must exist to use sick leave concurrently with FMLA leave. Please refer to section 0.

Types of FMLA Leave

There are two types of FMLA leave: continuous and intermittent/reduced work schedule.

Continuous FMLA Leave. An employee who is off work entirely for a single qualifying reason is considered on continuous FMLA leave.

Intermittent FMLA Leave. Intermittent FMLA leave (or a reduced work schedule) is leave taken in separate blocks of time, interspersed with periods of work, due to a single qualifying reason. For example, an employee may request intermittent FMLA leave or a reduced work schedule for transporting a family member to a medical care facility, filling in for primary caregivers, making arrangements for changes in care, attending periodic medical treatments, or episodic chronic illnesses/treatment (e.g., chemotherapy treatment).

Employees requesting intermittent leave or reduced work hours should schedule their leave so as to minimize disruption of DEQ's operations. Employees should, when possible, submit a schedule disclosing their planned leave. Anticipated leave not actually taken will not be counted against the employee's FMLA hours. Employees cannot be required to make up intermittent FMLA time.

Employees on intermittent leave may be temporarily transferred to another similar position, if the transfer helps to accommodate the employee's intermittent leave, until the need for intermittent leave no longer exists.

⁵ If FMLA leave without pay (FML) is used, the employee cannot request to change to a paid leave after the payroll has processed.

Intermittent leave related to birth, adoption, or foster care is only available with department approval. In approving or denying the employee's request for intermittent FMLA leave, the administrator is advised to consider the business needs of DEQ.⁶

Calculating Eligibility

The State of Idaho uses a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes FMLA leave, the amount of leave taken shall be computed and subtracted from the available weeks of leave. The balance remaining is the amount the employee is entitled to take at that time.

FMLA and Workers' Compensation

An employee on leave concurrently under FMLA and workers' compensation who receives a written certification from their health care provider that they are able to return to work in a light duty position is not required under the FMLA to do so.

If the employee refuses the light duty position, the employee may lose their workers' compensation benefits. In such a situation, the employee retains the right to continue on protected leave under the FMLA until the employee can return to their position or the FMLA entitlement is exhausted.

FMLA Procedures

1. **Notification and Request.** In some, but not all, instances, the need for FMLA leave is foreseeable.

Advance Notification Required. When the employee knows in advance of the need to take FMLA leave, the employee must give DEQ 30 days notice before taking such leave. Notice shall include the anticipated start date of the FMLA leave and the expected duration of the leave. Employees are to use the Request for FMLA Leave Form for this purpose (forms available on DEQ intranet).

Impromptu Leave. In situations where advance notification is not practicable, the employee shall notify the employer as soon as feasible. This ordinarily means the employee provides verbal notification to the employer within one business day of discovering the need for FMLA leave.

If the employee is unable to complete the Request for FMLA Leave Form to request unforeseen FMLA leave, the supervisor shall complete the form on the employee's behalf.

⁶ DEQ has the right to require the employee to temporarily transfer to another equivalent position while on intermittent leave to least disrupt business.

If an employee is unable to provide notice, an employee's friend or family member, acting on the employee's behalf, may notify the employer of the employee's need to take FMLA leave. Such notice may be communicated via phone call, fax, mail, or email. In such situations, the supervisor shall complete the Request for FMLA Leave Form on the employee's behalf.

2. **Medical Certification.** When an employee requests FMLA leave for their own medical condition or to care for family members, the employer may require the employee to furnish a medical provider's statement certifying the medical information necessary to determine the employee's eligibility for FMLA leave at the time such leave is requested.

To expedite processing of the leave request, employees are encouraged to furnish the medical provider's statement with their completed Request for FMLA Leave Form to the DEQ Human Resource Office. Ultimately, the employee must return the completed medical documentation within 15 days from the date of the leave request, unless a request for extension was received and approved. If an employee fails to provide medical documentation, FMLA leave may be denied.

In situations where FMLA leave was unforeseen, the employer shall request certification within 2 business days after the leave commences. The employee then must provide the medical certification within 15 days of receipt of the employer's request.

In cases where medical certification is required, the certification must be complete and sufficient. If the agency finds that the medical certification provided by the employee is incomplete (one or more of the applicable entries have not been completed) or insufficient (the information provided is vague, ambiguous, or inconclusive), the agency shall notify the employee in writing of additional information needed to make the certification complete and sufficient. The employee shall have 7 days (unless not practicable despite the employee's diligent efforts) to cure the deficiencies. Failure by the employee to do so may result in denial of FMLA leave.

To determine the extent of an employee's serious health condition, if the first medical certification appears to lack validity, the employer may request a second opinion. If the second opinion is different than the first opinion, the employer may request a third medical opinion. That third opinion will be binding. If second and third opinions are requested by the employer, they will be paid for by the employer.

3. **Eligibility Determination and Response.** The employer is required to provide the employee with an Eligibility Notice along with a Designation Notice once FMLA leave is requested.

- **Eligibility Notice.** Pursuant to section 3.2.9 of this policy, DEQ must notify the employee of their FMLA eligibility status within five days of the employee's request or DEQ learning the leave may be FMLA-eligible. In conjunction with the Eligibility Notice, DEQ shall also provide the employee with written notification of the employee's rights and responsibilities under the FMLA, including the

information contained in the Notice of Eligibility and Rights & Responsibilities Form. This notification shall include:

- Whether medical certification is required, and the consequences for failure to provide such medical certification
 - Whether certification to verify a QE is required, and the consequences for failure to provide such certification
 - Whether a fitness-for-duty certification is required for the employee to return to work, and the consequences for failure to provide such a certification
- **Designation Notice.** Within five days of receiving enough information to determine an employee's FMLA eligibility, DEQ shall provide written, official confirmation of the employee's leave designation and the parameters (i.e., expectations, obligations, and consequences for failure to meet the same) of the FMLA leave using the FMLA Designation Notice Form. An employee can affirmatively decline to use FMLA leave after receiving written, official confirmation of their eligibility.
 - If a fitness-for-duty certification specifically addressing the issue of whether the employee can meet the essential functions of their job will be required for the employee to return to work, DEQ must provide a list of the essential job functions no later than the date of the Designation Notice. In such a case, the Designation Notice must specifically inform the employee that the certification must address the employee's ability to perform those essential job functions.
4. **Procedures for Coding FMLA Leave.** Employees/supervisors should not code FMLA leave on timesheets until the employer has verified the employee's eligibility for such leave. Such verification can be either verbal or written. Available time codes include the following:

For leave pursuant to section 0 circumstances 1–5:

- FMS: Family Medical Leave—Sick (uses the employee's accrued sick leave while on FMLA leave)
- FMV: Family Medical Leave—Vacation (uses the employee's accrued vacation leave while on FMLA leave)
- FMC: Family Medical Leave—Comp Time (uses the employee's accrued compensatory time while on FMLA leave)
- FML: Family Medical Leave—Unpaid

For leave pursuant to section 0 circumstance 6:

- FSS: Service Member Family Leave—Sick (uses the employee's accrued sick leave while on FMLA leave)
- FSV: Service Member Family Leave—Vacation (uses the employee's accrued vacation leave while on FMLA leave)

- FSC: Service Member Family Leave—Comp Time (uses the employees accrued compensatory time while on FMLA leave)
- FSL: Service Member Family Leave—Unpaid

Supervisors are responsible for ensuring accuracy of employee timesheets including the use of FMLA leave codes.

5. **Completion of Leave.** An employee who is returning from FMLA leave may be required to provide a fitness-for-duty certification from their medical practitioner, if due to the nature of the health condition and the job:
- Light-duty work or other accommodation is requested
 - DEQ, having a reasonable basis in fact to do so, requires assurance that returning to work would not create a significant risk of substantial harm to the employee or others

Note that if a fitness-for-duty certification is required upon return to work, the employee must be notified in writing of that requirement in advance via the FMLA Designation Notice Form. If the employer wishes the fitness-for-duty certification to address the employee's ability to meet essential job functions, the employer must provide the employee with a list of the essential job functions in conjunction with the Designation Notice.

If reasonable safety concerns exist regarding the employee's ability to perform their duties based on the condition for which the leave was taken, DEQ may require a fitness-for-duty certification up to once every 30 days for an employee taking intermittent or reduced schedule FMLA leave.

Benefits and Employee Rights

While on FMLA leave, the employee's health and dental benefits will remain unchanged. Thus, the employee will remain responsible for their share of the monthly health and dental premiums. If the employee is using eligible accrued paid leave balances to receive a full or partial paycheck while on FMLA leave, the employee's portion of health and dental insurance premiums will be deducted as usual. However, if the employee is not receiving a sufficient paycheck, the employee must arrange to pay their portion of health and dental insurance premiums. If the employee does not return to work after FMLA leave for reasons beyond their medical condition, the employer can require the employee to reimburse the state's share of the premiums paid during the employee's FMLA absence.

An employee's use of FMLA leave cannot result in the loss of any employment benefits that the employee earned or to which they were entitled to **before** using FMLA leave.

Use of FMLA leave cannot be counted against the employee for any disciplinary action regarding attendance.

Upon return from FMLA leave, employees are entitled to be restored to the position they held before the FMLA leave or to be restored in a substantially equivalent position with substantially equivalent benefits, pay, and other terms and conditions of employment.

3.2.10 Americans with Disabilities Act as Amended DEQ Reasonable Accommodation Policy

The Americans with Disabilities Act as Amended (ADA) DEQ Reasonable Accommodation Policy requires employers to reasonably accommodate qualified individuals with disabilities. DEQ will comply with all federal and state laws concerning the employment of persons with disabilities and not to discriminate against qualified individuals on the basis of disability in regard to application procedures, hiring, advancement, discharge, compensation, training, or other terms, conditions, and privileges of employment.

When a disabled employee or applicant requests a reasonable accommodation, this initiates an interactive process between the individual and DEQ. DEQ will make a good faith effort to provide a reasonable accommodation in a timely and cost-effective manner to qualified individuals with a disability so that they can apply for a job and/or perform the essential functions of a job. This policy allows and encourages requests for accommodation to be resolved at the lowest possible managerial level. Upon consultation with the individual and HR, a supervisor or administrator will have the authority to make reasonable accommodations.

Employees or applicants shall inform DEQ of their need for an accommodation. Requests should be made to the supervisor and HR. Requests can be communicated verbally or in writing (see DEQ ADA Reasonable Accommodation Request Form on the intranet).

Management may initiate the reasonable accommodation interactive process without being asked, if management:

1. knows that the employee has a disability
2. knows, or has reason to know, that the employee is experiencing workplace problems because of the disability
3. knows, or has reason to know, that the disability prevents the employee from requesting a reasonable accommodation

If the individual with a disability states they do not need a reasonable accommodation, DEQ will have fulfilled its obligation.

Because no two disabilities are the same and no two employment situations are identical, accommodations will be evaluated on a case-by-case basis.

HR is responsible for implementing this policy, including oversight; interpreting this policy to applicants, employees, and supervisors; resolving requests for reasonable accommodation; maintaining safety; and investigating undue hardship and other matters related to this policy.

Accommodation Process

DEQ will seek to provide reasonable accommodation for a known disability or at the request of an individual with a disability. Many individuals with disabilities can apply for and perform the essential functions of their job without any reasonable accommodations. When needed, the reasonable accommodation process involves the following:

When a qualified individual with a disability requests an accommodation, reasonable effort must be made to provide an accommodation that is effective for that individual. When considering accommodation requests for employees or job applicants, the following process may be used:

1. Look at the particular job involved. Determine its purpose and its essential functions.
2. Consult with the individual with the disability to identify their specific physical or mental abilities and limitations as they relate to the essential job functions. Identify what specific job tasks, work environment(s), equipment, or policies are creating barriers to successful job performance and assess how these barriers could be overcome with an accommodation.
3. In consultation with the individual, identify potential accommodations and assess how effective each would be in enabling the individual to perform essential job functions.
4. HR and others deemed necessary will meet to discuss the possible reasonable accommodation(s). This meeting may include, but will not be limited to, gathering new or additional medical information to substantiate an ADA-protected disability, as appropriate; assessing the need for accommodation; further clarifying and identifying any functional limitations; determining undue hardship; identifying a second type of reasonable accommodation; determining the possibility of outside funding, such as a state rehabilitation agency, paying for all or part of the accommodation; and consulting with outside sources (i.e., medical professional(s), Job Accommodation Network, or Equal Employment Opportunity Commission). HR will communicate the decision made in writing to the employee or applicant.

Other Guidance

An individual who can be reasonably accommodated for a job, without undue hardship, will be given the same consideration for that position as any other applicant.

DEQ will make a good faith effort to implement the accommodation suggested by the individual, unless it would cause an undue hardship or a less expensive or easier alternative reasonable accommodation is identified.

Any requested accommodation for which disapproval is contemplated, involves structural change, or any other unusual request will be submitted to the director or their designee for review before a decision is acted upon.

If it is determined that DEQ will not provide accommodations, individuals with disabilities will be afforded the opportunity to provide accommodations for themselves. However, the individual with a disability will not be afforded the opportunity to make accommodations which affect a temporary or permanent change to any facility. Nor will the individual with a disability be afforded the opportunity to restructure the job duties, knowledge, skills, or abilities in question without the written consent of the individual's supervisor and administrator, and will require HR review.

The fact that an individual is willing to provide their own accommodation does not relieve DEQ of the duty to provide reasonable accommodation should this individual for any reason be unable or unwilling to continue to provide the accommodation.

The duty to provide reasonable accommodation is ongoing. Certain individuals require only one reasonable accommodation, while others may need more than one. Still others may need one reasonable accommodation for a period of time, and then at a later date, require another type of reasonable accommodation. If an individual requests multiple reasonable accommodations, the individual is entitled only to those accommodations that are necessitated by a disability and that will provide an equal employment opportunity.

DEQ is not obligated to provide personal use items, such as a wheelchair, hearing aids, or protective clothing, as a reasonable accommodation.

All employees are required to comply with safety standards. Applicants who pose a direct threat to the health or safety of other individuals in the workplace, if said threat cannot be eliminated by reasonable accommodation, will not be hired. Current employees who pose a direct threat to the health or safety of other individuals in the workplace will be placed on appropriate leave until an organizational decision has been made in regard to the employee's immediate employment situation.

Medical information on applicants or employees is confidential. Medical information may be given to, and used by, appropriate decision makers involved in the process so they can make employment decisions consistent with the ADA. In addition, DEQ may use the information to determine reasonable accommodations for the individual.

Reasonable accommodations for job applicants may include the following:

- Asking only those questions (during the application or interview process) which determine whether an applicant has the requisite education, training, and skills for the position and which focus on an applicant's ability to perform the job
- Informing applicants that they may request any needed accommodation to participate in the application or interview process
- Providing the requested accommodation unless it would cause an undue hardship

Appeal

Any DEQ employee who wishes to challenge a decision of reasonable accommodation shall have access to the problem-solving procedure, see Section 4.

Protections Against Discrimination and Retaliation

No employee or applicant shall be disciplined or otherwise prejudiced in employment for requesting a reasonable accommodation. Specifically, no supervisor or any other employee of DEQ may retaliate against an employee or applicant for the following:

- Requesting a reasonable accommodation
- Participating in the reasonable accommodation process
- Assisting another employee or applicant in filing a request

Any employee or applicant who believes they have been discriminated or retaliated against for participating in the reasonable accommodation process is instructed to notify HR.

3.2.11 Special Leave Benefits

In addition to sick and vacation leave benefits, other leave benefits may be available to employees as follows (DHR Statewide Policy, Section 5: Special Leaves).

Administrative Leave With Pay

The director or their designee may grant administrative leave with pay under any of the following conditions:

- When the employee is being investigated
- When the employee is involved in the due process procedure
- When approved in advance by the Governor

When a state office/facility is closed or declared inaccessible by the Governor or their designee because of severe weather, civil disturbances, loss of utilities, or other disruptions, affected employees are authorized administrative leave with pay to cover their scheduled hours of work during the closure or inaccessibility.

If an employee was not scheduled to work on the day when an office/facility is declared closed, the employee is not eligible for administrative leave with pay.

In the interest of employee safety, the director or their designee may approve employee early release, delayed start time, or absence from work due to weather or other emergency conditions. Those affected employees will use their appropriate accrued leave balances or leave without pay.

Leave of Absence Without Pay

Leave without pay (LWOP) may be one day, or a fraction thereof, or an extended absence during which an employee is not paid. This policy includes applicable restrictions to use of LWOP.

- **Use and Approval of LWOP.** All LWOP must be approved by the administrator, deputy director, or director. If an employee is requesting 4 weeks or more, refer to the Extended Leave of Absence section below (IDAPA 15.04.01.250.01.a).
- **LWOP and Workers' Compensation Absences.** Supervisor and/or appointing authority approval are not required for employees absent from work due to a work-related illness or injury to be unpaid. The decision to use accrued sick and/or vacation balances in this situation is the employee's.
- **Credited State Service Hours.** Employees on LWOP do not earn credited state service hours.
- **Exhaustion of Accrued Leave.** Unless prohibited by workers' compensation, family medical leave, disability, or other statewide leave policies, DEQ has discretion on whether the employee is required to exhaust all other applicable types of accrued leave before commencing leave without pay (IDAPA 15.04.01.250.01.c).
- **LWOP and Medical Insurance Coverage.** Insurance and other employee payroll deductions are the responsibility of the employee. Employees may be responsible for self-paying health insurance premiums during extended leave without pay. For questions on continuing coverage and paying premiums, the employee needs to contact the DEQ Human Resource Office.
- **Extended Leave of Absence (four weeks to three months).** In some cases, a full-time classified employee who meets performance objectives may be granted extended leave (up to three months) for personal reasons when such leave would not have an adverse effect upon DEQ's operations. Extended leave of absence is considered leave lasting four weeks to three months and has the following additional requirements:
 - The employee must submit a written request for extended leave, establish reasonable justification for approval of the request, explain work coverage, and state the beginning and end dates of the leave.
 - Employees taking extended leave must exhaust all vacation leave and compensatory leave to which they might be eligible before leave without pay status begins.
 - The employee's request will be routed through their immediate supervisor, administrator, HR, and final approval by the director or their designee.

Military Leave—(Federal Active Duty)

Employees who are members of the US Armed Forces or the National Guard that receive federal military orders requiring them to be absent from work shall be entitled to 120 hours of paid military leave (MLT timecode) per calendar year. Military leave with pay will be authorized when the employee submits a copy of their federal orders from the appropriate military

jurisdiction, which sets forth the dates of required military service. Each period of absence must be supported by orders or other documentation on file in the employee's military unit headquarters (IDAPA 15.04.01.250).

Any probationary, provisional, or permanent employee who voluntarily, or upon demand, leaves a position to enter prolonged federal active duty with the military will be returned to their same or similar position upon their return from such leave. A copy of the orders is required to take military leave, and a copy of the discharge papers is required upon returning from said leave.

- **Amount of Leave.** Such employees, regardless of whether they work full-time or part-time, are entitled to 120 hours of military leave with pay per calendar year.
- **Use of Other Accrued Leave.** During federal military deployment, the employee will be in a state employment status of "Inactive With Pay." Therefore, the employee may elect to use vacation (VAC) and/or compensatory time (CPT) during the deployment period. The employee must provide a written request to their supervisor before using such time.
- **Benefits for Employees.** Employees who are members of the US Armed Forces or the National Guard who are called to federal active duty will receive regular employee benefits for 30 calendar days after departure. DEQ will pay for the state's portion of the health insurance premiums during those 30 calendar days; the employee will be responsible for their portion. Employees called for federal active duty shall, upon their return to state employment, receive credited state service hours for their regularly scheduled hours that they missed while on federal active duty.
- **Flexible Leave.** Employees in reserve programs often have an option on dates for annual training exercises. The director or their designee may request that the employee select dates which will least interfere with DEQ's objectives. If the employee has a choice, it shall be the employee's responsibility to discuss options with their supervisor and the military unit and to accept such dates.

Military Leave—(State Active Duty)

Any probationary, provisional, or permanent employee who voluntarily, or upon demand, leaves a position to enter state active duty with the Idaho Military Division will be granted military leave without pay and will be returned to their same or similar position upon their return from such leave. A copy of the orders is required to take military leave, and a copy of the discharge papers is required upon returning from said leave.

- **Inability to Use Accrued Leave.** Employees that are called to state active duty will remain in a state employment status of "Active." No earnings will be reported for the employee during the deployment period. Only time worked as state active duty will be coded via Idaho Military Division. Because the employee continues to be an active State of Idaho employee during the state active duty and the State of Idaho is the employer, the employee is not eligible to use any paid leave from the original employing agency during the state active duty deployment period.

- **Accrual of Credited State Service.** Employees on state active duty will accrue credited state service for time worked with the Idaho Military Division.

Court and Jury Service

Employees are permitted and encouraged to participate in the court process.

- **Connected with Official State Duty.** When an employee is subpoenaed or required to appear as a witness in any judicial or administrative proceeding in any capacity connected with official state duty, they shall not be considered absent from duty. The employee shall not be entitled to receive compensation from the court. Expenses (mileage, lodging, meals, and miscellaneous expenses) incurred by the employee shall be reimbursed by DEQ in accordance with state travel regulations.
- **Private Proceedings.** When an employee is required to appear as a witness or a party in any proceeding not connected with official state duty, the employee shall be permitted to attend. The employee may use accrued leave or leave without pay.
- **Jury Service.** When an employee is summoned by proper judicial authority to serve on a jury, they shall be granted a leave of absence with pay (JUR) for time which otherwise the employee would have worked. The employee shall be entitled to keep fees and mileage reimbursement paid by the court in addition to salary. Expenses in connection with this duty are not subject to reimbursement by DEQ.

An employee summoned for court and jury service or requested to serve as a witness or representative must notify their supervisor as soon as possible to obtain authorization for leave of absence. Supervisors may allow employees to flex their work schedules during a week when time is spent as a witness or juror. The employee shall provide to their supervisor documentation indicating the date(s) called and time actually served (IDAPA 15.04.01.250.06).

Organ and Bone Marrow Donation Leave

Employees are not required to take sick leave when donating an organ or bone marrow. Employees may take a maximum of 30 working days of paid leave if they are donating a body organ and a maximum of five working days of paid leave if they are donating bone marrow (IDAPA 15.04.01.250.11). The employee must provide the DEQ Human Resource Office with written verification that the employee is the person serving as a donor. Paid leave is limited to one-time bone marrow and one-time organ donor leave per employee. An employee who is granted such leave of absence will receive compensation without interruption during the leave period. For purposes of determining credited state service, pay advancement, performance awards, or any benefit affected by a leave of absence, the service of employee is considered uninterrupted by the paid leave of absence (Idaho Code §67-5343).

Election Leave

Supervisors shall make reasonable accommodations to an employee's need for leave to vote. Such leave shall be charged to the employee's accrued vacation leave or compensatory time off.

Religious Leave

Supervisors shall make reasonable accommodations to an employee's need for leave for religious observances. Such leave shall be charged to the employee's accrued vacation leave or compensatory time off.

Miscellaneous Leave

An employee attending non-job related training, performing civic duties, or other similar activities may use earned leave time to cover the period of absence from work.

- **Leave for Job Interviews: Internal.** Time spent interviewing for other positions within DEQ is considered time worked. Time spent traveling to and from interview appointments within DEQ is not considered time worked unless approved by the supervisor.
- **Leave for Job Interviews: External.** Time spent interviewing for positions outside DEQ is not considered time worked, and the employee is required to use appropriate accrued leave or leave without pay to cover the period of absence from work.

Red Cross Disaster Services Leave

Employees who have been certified by the American Red Cross as disaster service volunteers shall be granted up to 120 hours of paid leave in any 12-month period to participate in relief services pursuant to Idaho Code §67-5338. Such relief services must be in Idaho or a state bordering Idaho.

3.2.12 Training/Coursework

DEQ encourages career development opportunities including taking courses at colleges, universities, accredited trade or business schools, and attending seminars and workshops. DEQ may assist in defraying all or a portion of the tuition and fees when in the best interests of DEQ.

College, university, and accredited trade or business school class attendance will usually be outside of the employee's normal work schedule and not be considered work time. Release time during work hours may be granted through the prior approval of flex time, the employee's compensatory or annual leave time, or through the use of leave without pay. Time spent working on homework is also not considered work time.

Class attendance for state-sponsored trainings such as Respectful Workplace, Cybersecurity, and the Certified Public Manager (CPM) will be considered part of the employee's normal work time. The CPM requires completion of a project and, if the project will benefit DEQ, time spent working on the project will be considered part of the employee's normal work time. Homework for CPM classes is not considered work time.

Payment/Reimbursement of Expenses

Financial payment/reimbursement for costs of tuition related to college, university, trade, or business school coursework or conferences/training over \$799 must be preapproved by the director or their designee and is subject to the following limitations:

- DEQ may pay all tuition and fees for coursework **required** by DEQ, dependent upon successful completion of the course. For coursework required by DEQ, direct billing of tuition is preferred.
- DEQ may reimburse up to 50% of the cost per credit hour, up to six credits per semester, based on a three-semester year for coursework **not required** by DEQ. Attendance, grades, and impact of the educational activity toward DEQ's goals all may factor into the reimbursed amount for any class. Reimbursement may occur once the course has been completed. Reimbursement amounts exempt from taxes are subject to IRS limits.
- There is an annual limit of \$2,000 per employee for undergraduate credit or \$3,000 per employee for graduate credit. The annual limit begins July 1 and ends June 30 of each year.
- The employee must have permanent employment status before enrollment and must work at least 20 hours per week during the period they are enrolled in the course.
- Coursework must be related to the improvement or development of knowledge or skills used in an employee's current position or for career advancement within DEQ. The request needs to include written justification with a detailed description of the course(s) and the related benefits to DEQ.
- A passing grade of "C" or higher is required for any payment/reimbursement. If an employee does not maintain a "C" or higher, repayment for any tuition and fees that have been paid on the employee's behalf by DEQ may be required.
- The employee agrees to continue employment with DEQ for one year following reimbursement by DEQ for coursework where the expense has exceeded \$2,000 or more within a fiscal year. The employee agrees to continue employment with DEQ for one year following payment by DEQ for conferences/trainings where the expense is \$5,000 or more (including registration and travel). If DEQ pays for the coursework or conference/training and the employee chooses to resign or is terminated for cause before one calendar year, the employee agrees to reimburse DEQ for the amount received. The agreed period starts once the payment or reimbursement is issued from DEQ.
- Employees who withdraw from a class are required to pay all tuition and fees for that class and/or reimburse DEQ for any tuition and fees that have been paid on the employee's behalf.
- Employees who terminate employment with DEQ before completing a course will not be reimbursed and/or may be required to reimburse DEQ for any tuition and fees that have been paid on the employee's behalf.

- Employees who are laid off before completion of coursework will be reimbursed as if regularly employed.

Training Requests

- All training attended must be approved in advance (see DEQ intranet *training section*).
- Training requests with registration fees over \$799 will be forwarded to the director or designee for review. The request will be considered based upon its job-related merits, budget limitations, and compliance with department policy.
- All out-of-state training requests require approval by the director or designee and will typically be limited to full-time, classified employees of DEQ. Employees on entrance probation or temporary employee requests for out-of-state training will be considered on a case-by-case basis dependent on department need. The supervisor will inform the employee of the decision.

Supervisor Required HR Trainings

Supervisors are required to complete the following HR trainings:

- DEQ New Supervisor Training: To be completed within one month of being hired.
- Drug and Alcohol Free Workplace: To be completed every five years or when the law/policy changes.
- Family Medical Leave Act (FMLA): To be completed every three years or when the law changes.
- Americans with Disability Act: To be completed every three years or when the law changes.

Employee Required HR Trainings

Employees are required to complete the following HR trainings:

- New Employee Orientation: To be completed within the first three months of employment.
- Respectful Workplace Training: To be completed annually as determined by DHR.
- Cybersecurity Training: To be completed as determined by DHR.

3.2.13 Moving

This policy is used in conjunction with the State Board of Examiners Moving Policy.

DEQ may compensate newly hired and transferred employees for moving expenses within the provisions described by the Board of Examiners. The hiring supervisor will be responsible for ensuring the applicant/employee has access to a copy of the Board of Examiners Policy (see the Moving Policy at www.sco.idaho.gov).

The DEQ Human Resource Office will coordinate moving efforts to ensure a consistent moving policy application. They will coordinate the reimbursement process and review required

documentation before approving payment. Employees will be informed that some moving costs are taxable.

The supervisor may negotiate and offer moving expense reimbursement of no more than 10% of an incumbent's annual salary or \$15,000, whichever is less. The offer letter and moving expense agreement form will include language regarding the employee reimbursement of moving expenses in the event of voluntary termination within the first year (see HR forms on the intranet).

The employee will be responsible for resolving problems regarding loss or damage claims, missed loading or delivery dates, etc. with the moving company.

3.2.14 Employee Service Recognition

To recognize and show appreciation for years of service, employees will be recognized for longevity with the State of Idaho by receiving a certificate, signed by the governor, in 5-year increments. In addition, employees with 20 years or more of state service will receive a letter from the governor.

The DEQ Human Resource Office will provide administrators with recognition certificates. Each division or region may purchase frames through the approved state office supply vendors at a cost of no more than \$20.

3.2.15 Employee Assistance Program

The Employee Assistance Program (EAP) provides counseling for benefits-eligible state employees and their dependents. Counseling may cover a broad range of personal problems including, but not limited to, alcohol and drug dependency; marital stress; domestic violence; financial problems; job stress; difficulties with children; child peer and social pressures; mental, emotional, or health problems; and elderly parental problems.

Employees will be treated with the utmost confidentiality when utilizing the EAP. DEQ has no access to EAP records.

Employees may use accrued leave or flex their schedules to accommodate EAP appointments.

The decision to seek help through the EAP is primarily the responsibility of the employee. In cases where personal problems are suspected, a supervisor may suggest that an employee use the EAP. An employee may accept or reject the supervisor's suggestion to use the EAP without fear of retribution for not accessing the program, except in instances where a formal referral is made in conjunction with a disciplinary action.

4 Problem Solving

4.1 General (Idaho Code §§67-5315, IDAPA 15.04.01.200)

Classified employees with permanent, provisional, or entrance probationary status are eligible to use a formal conflict resolution process called problem solving. This procedure is for any job-related non-disciplinary matter except for termination during the entrance probationary period (IDAPA 15.04.01.152).

Employees are required to make a reasonable attempt to discuss the issue with their immediate supervisor before requesting a problem solving meeting. The goal of problem solving is to resolve issues at the management level closest to the employee within their chain of command. When that is not possible, the problem-solving request will continue through the process. Final resolution may come at any level within the problem-solving process. For reporting instructions on allegations of sexual harassment or discrimination, see Respectful Workplace policy (Section 5.6).

Problem-solving decisions are not generally appealable to the Idaho Personnel Commission except as authorized by Idaho Code §67-5316.

4.2 Time Frames

An employee shall file for problem solving in writing no later than 10 working days after being notified or becoming aware of a non-disciplinary matter which may be handled through the problem solving procedure; however, if the filing alleges an ongoing pattern of harassment or illegal discrimination, the time limits may be waived. The time limit for filing will be extended due to the employee's illness or other approved leave, up to 10 days after return to the job. DEQ may accept a filing that is or appears to be filed late.

Timelines must not exceed five working days between each step unless both the employee and the agency agree, in writing, to a specific number of days to extend the timelines herein, but not to exceed thirty days between each step. If an employee does not meet the time limits specified in the problem-solving procedure for requesting the next level of review, the matter may be considered resolved or dropped.

4.3 Work Time

The employee and other staff involved, upon approval of their respective immediate supervisors, will be allowed regular work time for problem-solving resolution discussions.

4.4 Optional Mediation Step

Mediation is an optional non-binding method of dispute resolution with a third-party impartial mediator. It may be requested at any time by the employee or by others involved in the problem-solving process.

DEQ and employee must mutually agree to engage in mediation during the problem-solving procedure. Mediation is not possible unless both DEQ and employee agree. If mediation is pursued and the process agreed to by both parties, the first session is usually held within five working days of the agreement. All other time limits in the problem-solving procedure are placed on hold during mediation. DEQ and employee must also agree upon a mediator. Employee representatives are not allowed in the mediation process.

If mediation is not successful in the resolution of an issue, the employee must request to continue problem solving within five days of the conclusion of the mediation or the matter is considered resolved.

4.5 Retaliation Prohibited

No employee shall be disciplined or otherwise prejudiced in their employment for exercising their rights under the problem-solving procedure. No supervisor or any other official of DEQ may retaliate against an employee for:

- Filing under this problem-solving procedure or
- Participating as a witness or as an employee representative

4.6 Representation

An employee has the right to be represented by anyone they choose at each step of the procedure, except for the initial discussion with the immediate supervisor. Employees are responsible for notifying representatives of the time and place for meetings. The schedule limitations of the employee's representative shall not unreasonably delay the process. The employee is responsible for compensating a representative and for paying the representative's expenses.

4.7 Problem Solving Procedure Steps

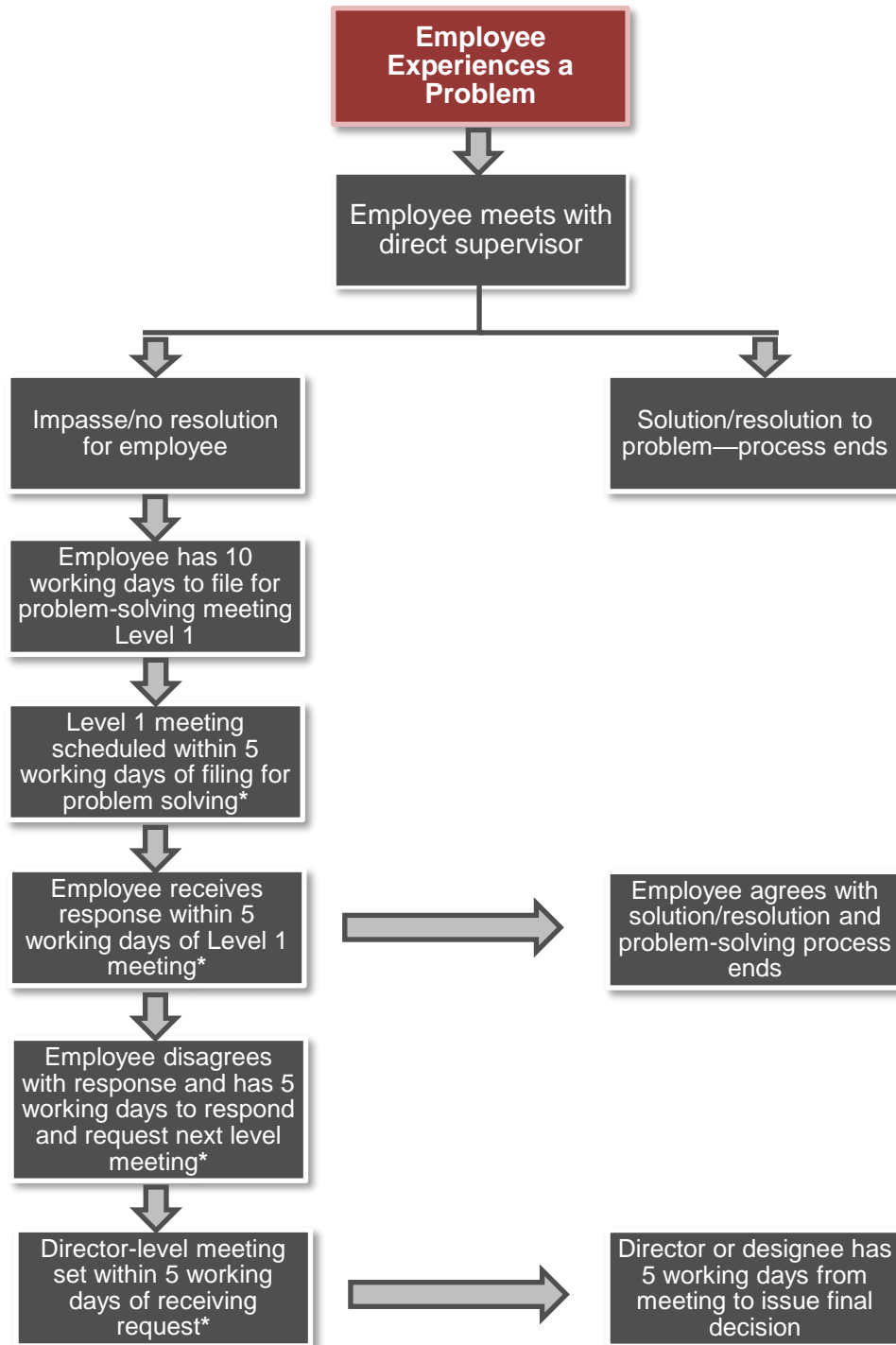


Figure 1. Problem solving procedure steps.

*Exception(s) outlined in procedure

5 Respectful Workplace

5.1 General

DEQ is committed to a work environment in which all individuals are treated with dignity and respect. Every employee has the right to work in a professional atmosphere promoting equal employment opportunities and prohibiting unlawful discriminatory practices, including harassment (DHR Statewide Policy, Section 9: Respectful Workplace).

5.2 Equal Employment Opportunity

DEQ will ensure equal employment opportunity for all individuals. Discrimination or harassment based on race, color, religion, sex (includes gender identity and sexual orientation), national origin, age, disability, marital status, citizenship, genetic information, pregnancy, military status, or any other characteristic protected by law is prohibited.

This policy may not be used as a basis for excluding and/or separating individuals by any protected characteristic from participating in business-related social activities or discussions to avoid allegations of harassment. The law and this policy prohibit disparate treatment based on any protected characteristic regarding terms, conditions, and/or privileges of employment.

5.3 Individuals and Conduct Covered

This policy applies to all employees of DEQ, including leadership, as well as individuals in contact with employees (e.g., applicants, outside businesses, clients, consultants, contractors, customers, elected officials).

Prohibited conduct as outlined in this policy is unacceptable in the workplace and in any work-related setting outside of the workplace, including business-related meetings, trips, or events.

5.4 Definitions of Harassment

Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 (ADEA), and/or the Americans with Disabilities Act of 1990 (ADA).

The Equal Employment Opportunity Commission (EEOC) defines harassment as unwelcome conduct that is based on race, color, religion, sex (includes pregnancy, gender identity and sexual orientation), national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Anti-discrimination charge, testifying, or participating in any way in an investigation, proceeding, or

lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.

Harassing conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures (e.g., written or graphic material that is displayed on the employer's premises and/or circulated in the workplace during business or while using company equipment via email, phone, voicemail, text message, social networking media, etc.), and interference with work performance. Harassment includes "off-work" activities as well.

Harassment can occur in a variety of circumstances, including, but not limited to, the following:

- The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee.
- The victim does not have to be the person harassed, but can be anyone affected by the offensive conduct.
- Unlawful harassment may occur without economic injury to, or discharge of, the victim.

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when, for example:

- submission to such conduct is made either explicitly or implicitly a term or condition of employment
- submission to or rejection of such conduct is used as the basis for employment decisions
- such conduct results in unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

Sexual harassment may involve individuals of the same or different gender. Example behaviors may include but are not limited to: unwanted sexual advances or requests for sexual favors; jokes and innuendo or verbal abuse of a sexual nature; commentary regarding an individual's body, sexual prowess or deficiencies; leering, whistling, or touching; insulting or obscene comments and gestures; display of sexually suggestive pictures or objects; and other visual, verbal, or physical conduct that is sexual in nature.

5.5 Respectful Workplace Defined

The examples outlined in this policy concerning sexual and other forms of workplace harassment are illustrative of conduct that may constitute harassment, but are not an exhaustive list. Other acts may constitute harassment depending on the circumstances of the specific situation. A single incident may not constitute harassment but would require investigation of the facts on a case-by-case basis.

5.6 Reporting Procedure

Individuals who believe they are subject to or have witnessed any of the types of prohibited conduct outlined in this policy should promptly advise the offender that their behavior is unwelcome and request that it be discontinued. This will often result in a quick resolution to the problem. However, DEQ recognizes that an individual may prefer to pursue the matter through a more formal process and/or be uncomfortable approaching the alleged harasser.

Individuals who believe they have been subject to, or have witnessed, conduct prohibited by this policy should discuss their concerns with an immediate supervisor, human resources, or a member of management. Employees have the right to file a complaint with the State of Idaho Division of Human Resources and/or the State of Idaho Human Rights Commission.

Any supervisor or manager who is made aware of prohibited conduct outlined in this policy must report the matter to the DEQ HRO as soon as possible. The supervisor or manager will provide details to the DEQ HRO of any action taken.

DEQ encourages prompt reporting of concerns so that action can be taken before relationships become irreparably strained. All complaints of harassment, discrimination, or retaliation must be investigated promptly. The investigation may involve individual interviews with the parties involved and/or those individuals who may have observed the alleged conduct or have other relevant knowledge. Employees are expected to fully cooperate with the individual(s) conducting the investigation.

5.7 Agency Responsibility

Any reported allegations of harassment, discrimination, or retaliation must be investigated promptly. If it is determined that discrimination or harassment prohibited by this policy has occurred, management will immediately act to reasonably ensure that the discrimination or harassment is stopped and does not reoccur.

5.8 Retaliation Prohibited

DEQ encourages employees to promptly report all perceived incidents of discrimination or harassment. Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of laws.

Retaliation against any individual who makes a good-faith complaint regarding discrimination or harassment, or who participates in the investigation of a related complaint, is expressly prohibited. Acts of retaliation should be reported immediately and must be investigated and addressed promptly.

5.9 Corrective Action

If it is determined that discrimination or harassment prohibited by this policy has occurred, management will immediately take action necessary to reasonably ensure that the discrimination or harassment is stopped and does not reoccur. Corrective action may include, but is not limited to, training, referral to counseling, and/or disciplinary action as appropriate based on the circumstances.

Complaints of harassment, discrimination or retaliation not made in good faith may be the subject of appropriate disciplinary action.

5.10 Confidentiality

DEQ recognizes and respects an employee's right to privacy. An employee's complaint will remain confidential throughout the investigatory process to the extent consistent with allowing adequate investigation and appropriate corrective action.

Employees are also expected to maintain confidentiality during the investigative process to ensure a fair and unbiased investigation.

5.11 Training

All state employees must be trained regarding discrimination and harassment avoidance as prescribed in the DHR statewide policy.

6 Corrective and Disciplinary Actions

Introduction — Corrective and disciplinary actions are administrative actions available to appropriately address unsatisfactory performance or behavior.

Basis for Corrective or Disciplinary Action — The decision to administer any form of corrective or disciplinary action will be based on facts that are verifiable through various investigative methods such as observed behavior, documentation, and eyewitness accounts. Corrective or disciplinary action will not be used to punish or otherwise retaliate against an employee for exercising their legal rights under federal or state law or department policies.

6.1 Corrective Actions

For performance or behavior issues that do not warrant formal discipline, supervisors may use some form of corrective action to address the issue with the employee. Corrective actions may be implemented at the discretion of each supervisor/administrator working in conjunction with HR. Corrective actions may include the following:

- *Verbal Warning* — Communication to inform the employee of the problem and/or performance expectations. Supervisors are required to place a brief note in their working files and may place in the next performance evaluation to document verbal warnings.
- *Written Warning or Reprimand* — Written notification to the employee, copied to their personnel file, that improvement must occur in their performance or conduct. The written communication stresses the seriousness of the issue and informs the employee of possible further discipline if acceptable performance or conduct is not attained and maintained. Written warnings or reprimands are required to be noted in the next performance evaluation.
- *Special Performance Evaluation* — A written evaluation conducted specifically to address a specific area(s) of improvement with identified time frames for follow-up. This may include a separate performance improvement plan (see section 6.2) developed by the supervisor to specifically address a problem or concern identified in the performance evaluation.

6.2 Performance Improvement Plans

A performance improvement plan (PIP) is a tool to assist supervisors in helping employees be successful. It can be used in conjunction with any corrective or disciplinary action and must be used with any performance evaluation in which a “does not achieve” rating is given.

The PIP is a document designed to do the following:

- Describe an employee’s performance or behavioral issues
- Identify goals related to areas of needed improvement
- List activities and resources that will help the employee reach those goals

- Provide time frames for those goals to be reached

The PIP will also affirm to the employee that failure to correct the performance or behavior issue within the guidelines of the PIP may result in further corrective or disciplinary action being taken, up to and including dismissal.

6.3 Disciplinary Actions

The director or their designee is authorized to implement disciplinary action, including dismissal, against a classified employee for the following reasons outlined in the “Rules of the Division of Human Resources and Personnel Commission,” (IDAPA 15.04.01.190):

- Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes, or rules of the agency or the Division of Human Resources and Idaho Personnel Commission
- Inefficiency, incompetency, or negligence in performing duties, or job performance that fails to meet established performance standards
- Physical or mental incapability for performing assigned duties, if a reasonable accommodation cannot be made for the disabling condition
- Refusal to accept a reasonable and proper assignment from an authorized supervisor
- Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the agency
- Intoxication or being under the influence of alcohol, or the misuse of medications or controlled substances, while on duty
- Careless, negligent, or improper use or unlawful conversion of state property, equipment, or funds
- Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantages
- Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude
- Acceptance of gifts in exchange for influence or favors given in the employee’s official capacity
- Habitual pattern of failure to report for duty at the assigned time and place
- Habitual improper use of sick leave
- Unauthorized disclosure of confidential information from official records
- Absence without leave
- Misstatement or deception in application for employment
- Failure to obtain or maintain a current license or certificate lawfully required as a condition in performance of duties
- Prohibited participation in political activities

The following are the types of disciplinary actions, in no particular order:

- *Suspension*—A disciplinary action taken against an employee whereby the employee is not permitted to report to work for a set period of time and cannot claim vacation, sick, or compensatory time for that period.
- *Involuntary Demotion*—A disciplinary action taken against an employee whereby they are reassigned to a position in another classification in a lower pay grade. This action may reduce their hourly pay rate.
- *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.
- *Reduction in Pay*—A disciplinary action taken against an employee whereby pay is reduced by a set amount over a period of time as a means of effectively suspending the employee without pay but without having them miss any work.
- *Dismissal*—The separation of an employee from classified service for cause due to an ongoing and uncorrected performance or behavior issue or for an offense of such magnitude as to warrant immediate separation.

6.4 Due Process (IDAPA 15.04.01.200.06)

All state employees who are classified and have attained permanent status (satisfactory completion of the entrance probationary period) are entitled to due process before the director or designee makes any decision to dismiss, demote, suspend, reduce pay, or involuntarily transfer an employee (Figure 2). Due process requires DEQ to provide the employee with notice and an opportunity to respond before such a decision is made to carry out any disciplinary action.

Step 1: Notice

When DEQ considers it necessary to take formal disciplinary action against a permanent classified employee, it must notify the employee and the administrator of DHR concurrently in writing. The notice will contain the following information:

1. **Notice of the Contemplated Action.** DEQ will provide the employee with notice of the contemplated action(s). For example, the notice may state that dismissal is the contemplated action. It may also set forth alternative forms of discipline, such as demotion or suspension.
2. **Notice of the Basis for the Contemplated Action.** DEQ will provide the basis or reasons for the contemplated action. The “basis” of the contemplated action is the for-cause reason and corresponding legal citation which supports the action against a permanent classified employee. The “for cause” reasons are listed in Idaho Code §67-5309 and in DHR Rule 190.01.
3. **Explanation of the Evidence.** DEQ will provide an explanation of the information or evidence pertinent to the contemplated action. This could include an explanation of

statements made by other employees, an explanation of documents, and/or an explanation of events leading to the notice.

4. **Time Period to Respond.** DEQ will set a time period within which the employee may respond, but in no event may that time period exceed 10 working days after the employee has received notice unless both DEQ and the employee agree otherwise in writing. For example, the notice might include: "You have an opportunity to respond no later than 5 working days after the date of this notice."

Step 2: Opportunity to Respond

A permanent classified employee who receives a Notice of Contemplated Action is entitled to an opportunity to respond in person or in writing. The opportunity to respond is the employee's opportunity to respond to the notice and present their reason(s) why the contemplated action should not be taken. The employee may accept the opportunity and respond within the time period, may reject the opportunity by failing to respond within the time period, or may waive the opportunity.

- **Time to Respond.** The Notice of Contemplated Action will contain a set time period selected by DEQ within which an employee may respond. The director or designee will make the final decision after the employee has responded, failed to respond, or otherwise waived the opportunity to respond in writing.
- **Right to Representation.** The law provides an employee with the right to be represented by a person of their choosing during the opportunity to respond.

Step 3: Director's Final Decision

The director or designee will notify the employee of the final decision no later than 10 working days after the employee has responded, failed to respond, or otherwise waived the employee's right to respond in writing. If a disciplinary sanction is imposed, the employee may have the right to appeal DEQ's decision to the Idaho Personnel Commission within 35 calendar days. Any such appeal does not stay the action. The final decision will be sent or delivered to the employee. The due process procedure ends when the director or designee notifies the employee of the decision.

Optional Step: Mediation

Within the discretion of DEQ, mediation is an optional non-binding method of dispute resolution with a third-party impartial mediator. It may be requested at any time by the employee or by DEQ involved in the due process. DEQ and employee must both voluntarily agree to engage in mediation during the due-process procedure.

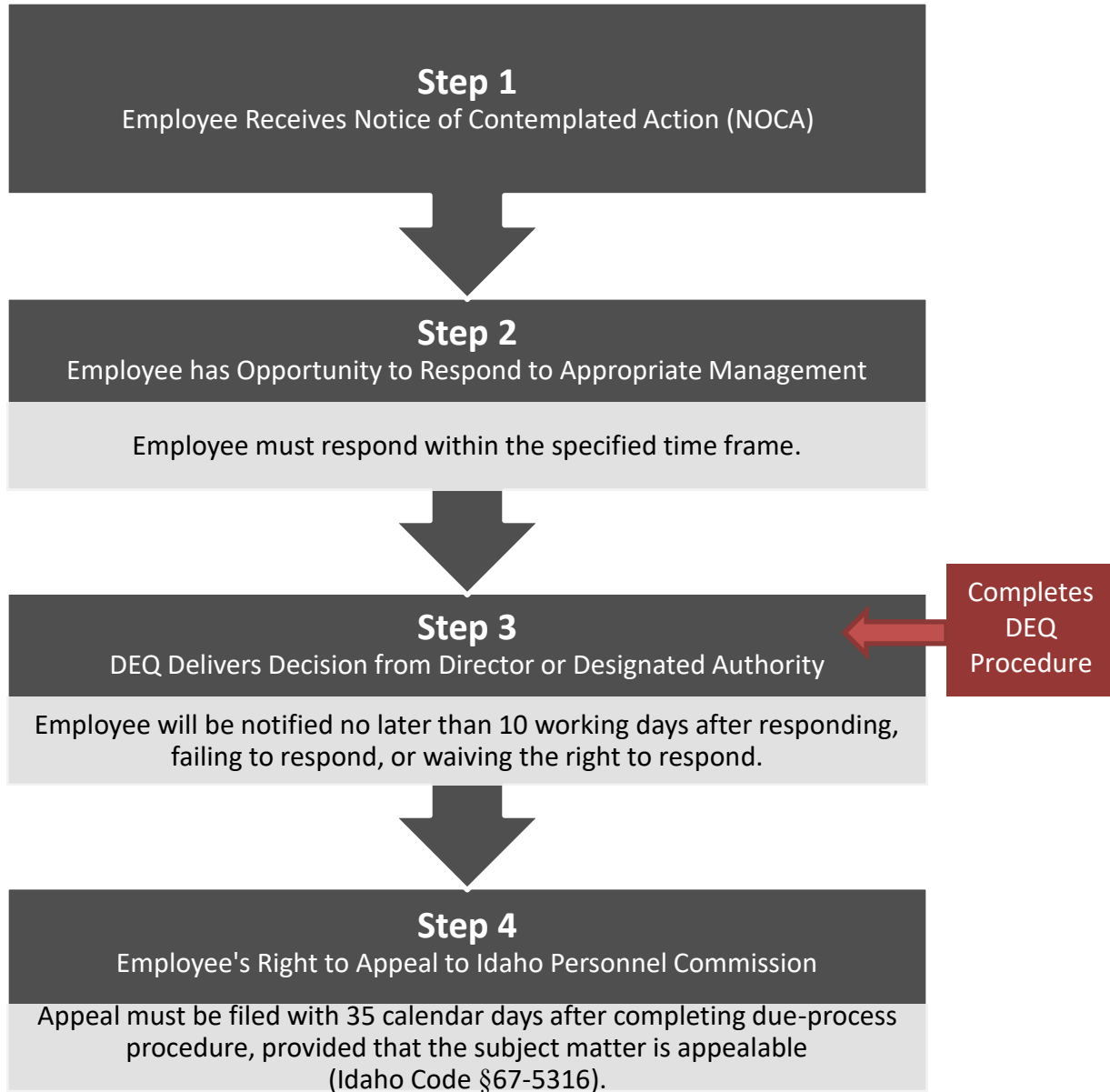


Figure 2. Due process.

7 References and Resources

Fair Labor Standards Act. Available at

<http://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>

Idaho Code— <https://legislature.idaho.gov/statutesrules/idstat/>

Idaho Council on Domestic Violence and Victim Assistance. Available at <http://icdv.idaho.gov/>

Idaho Ethics in Government Manual (August 2008). Available at

<https://www.ag.idaho.gov/content/uploads/2018/04/EthicsInGovernment.pdf>

Idaho Office of the Governor Executive Orders: All available at

<http://adminrules.idaho.gov/cindex/15exo.pdf>

IDAPA <https://dhr.idaho.gov/wp-content/uploads/IDAPA-15.04.01.pdf>

State Moving Policy and Procedures. Available at <https://www.sco.idaho.gov/LivePages/State-Moving-Policy-and-Procedures.aspx>

State Travel Policy and Procedures. Available at <https://www.sco.idaho.gov/LivePages/state-travel-policy-and-procedures.aspx>

DEQ Intranet Resources

Alternative Work Schedule Agreement:

<http://cmprod/HPEContentManager/HPRMServiceApi/Record/338605/File/Document>

DEQ Compensation and Workforce Management Plan:

<http://edms/hptrimwebclient/download/?uri=494030>

Intranet forms: <http://deq.intranet/forms-templates.aspx>

Position Telecommuting Assessment Tool:

<http://cmprod/HPEContentManager/HPRMServiceApi/Record/1348823/File/Document>

Telecommuting Agreement:

<http://cmprod/HPEContentManager/HPRMServiceApi/Record/1348831/File/Document>

Telecommuting Application:

<http://cmprod/HPEContentManager/HPRMServiceApi/Record/1348828/File/Document>

Telecommuting Employee Self Assessment:

<http://cmprod/HPEContentManager/HPRMServiceApi/Record/1348834/File/Document>

Telecommuting Work Plan:

<http://cmprod/HPEContentManager/HPRMServiceApi/Record/1348835/File/Document>

Training section: <http://deq.intranet/human-resources/training.aspx>