



**BOISE STATE UNIVERSITY**

University Policy 7450

## Classified Employees Due Process and Appeal Procedures

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### **Effective Date**

July 1995

### **Last Revision Date**

August 05, 2022

### **Responsible Party**

Human Resources, (208) 426-1616

### **Scope and Audience**

This policy applies to all Classified Employee Disciplinary Actions (dismissal, suspension, involuntary demotion, or involuntary reduction in pay) and Involuntary Transfers. A Classified Employee who has not successfully completed their entrance probationary period and achieved permanent status is an at-will employee and is not entitled to receive due process under this policy.

This policy does not apply to Classified Employee layoffs or downward reclassifications due to a reduction in force (see University Policy 7420 - Classified Employee Layoffs and Reemployment Preference). This policy does not apply to employment-related grievances reserved for problem solving under University Policy 7560 (Problem-Solving Procedure).

### **Additional Authority**

- Idaho Code §§, 67-5315, and 67-5316
- IDAPA 15.04.01.182-190 and 201
- Idaho State Board of Education Policy, Sections II.E. (Policies Regarding Classified Employees)

- Idaho State Board of Education Policy, Sections II.L. (Discipline – Adequate Cause – All Employees)
  - University Policy 7400 (Classified Employees Performance Evaluation)
  - University Policy 7430 (Classified Employees Disciplinary Action)
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## 1. Policy Purpose

To provide Classified Employees with due process and appeal procedures for Disciplinary Actions or Involuntary Transfers.

## 2. Policy Statement

Boise State University is committed to providing Classified Employees with notice, an opportunity to respond, and a right to be represented and seek optional mediation before taking Disciplinary Action against an employee or implementing an Involuntary Transfer. In those instances in which the university implements Disciplinary Action, the Classified Employee has the right to appeal such a decision to the Idaho Personnel Commission.

## 3. Definitions

### 3.1 Adequate Cause

One (1) or more acts or omissions which, singly or in the aggregate, have directly and substantially affected or impaired an employee's performance of their professional or assigned duties or the interests of the Board or University. In addition, conduct seriously prejudicial to the Board or University may constitute adequate cause for discipline, up to and including dismissal.

### 3.2 Appointing Authority

President, or designee (e.g., vice president, department head, direct supervisor)

### 3.3 Classified Employee

For the purposes of this policy, an employee serving in a Classified position who has successfully completed their entrance probationary period and achieved permanent status, including limited service appointments. Limited service appointments are defined under University Policy 7000 (Position Definitions).

### **3.4 Disciplinary Action**

An adverse employment action taken against an employee when Adequate Cause exists, which includes dismissal from employment with the university, suspension without pay, involuntary demotion to a job classification in a lower pay grade which may include a reduction in pay, and an involuntary reduction in pay within the same pay grade.

### **3.5 Due Process Procedure**

The activities required to address a permanent Classified Employee's constitutional right to notice and an opportunity to be heard (see Idaho Code § 67-5315).

### **3.6 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 voluntarily transfer.

## **4. Rights and Responsibilities**

- a. A supervisor who is considering taking Disciplinary Action against an employee, or implementing an Involuntary Transfer, must first consult with Human Resources before issuing a notice of contemplated action to the employee.
- b. A Classified Employee is entitled to receive notice and an opportunity to respond before the university makes a decision to take Disciplinary Action against an employee or implement an Involuntary Transfer.

## **5. Notice of Contemplated Action (NOCA)**

- a. A Classified Employee must receive a written NOCA when the university is contemplating Disciplinary Action or Involuntary Transfer of the Classified Employee.
- b. Contents of the NOCA must include:
  - The contemplated action (Disciplinary Action or Involuntary Transfer), the basis or reason for the contemplated action, and an explanation of the evidence supporting the contemplated action. Disciplinary Action may be taken for any of the reasons listed in University Policy 7430 (Classified Employees Disciplinary Action).
  - The timeframes for responding to the NOCA.

## 6. Opportunity to Respond

- a. The employee may respond to the NOCA in writing or by requesting to meet with the President/Vice President, or designee, and Human Resources.
- b. The employee must act upon the opportunity to respond to the notice within the time period indicated in the NOCA, which must not exceed ten (10) University business days after the employee has received the notice; otherwise, the opportunity to respond will be deemed waived by the employee. The employee may also waive their right to respond by notifying Human Resources prior to the time period indicated in the NOCA. The time period to respond may not be extended unless both the President/Vice President, or designee, and the employee agree to an extension in writing.
- c. An employee who chooses to respond to a NOCA should present the reason(s) why the contemplated action(s) should not be taken and provide any supporting documentation.
- d. The employee has the right to be represented by an attorney, or a non-attorney advisor of their own choosing, during the opportunity to respond. If an employee chooses to be represented by an attorney, the employee must notify the individual who issued the NOCA and copy Human Resources of such representation.

## 7. University's Decision

- a. The President/Vice President, or designee, will make and implement the university's final decision and notify the employee of such decision no later than ten (10) University business days after the employee has responded, failed to respond, or otherwise waived in writing their right to respond, whichever occurs first. The notification of the decision must provide the employee with their appeal rights under Section 9 of this policy.
- b. The ten (10) University business days exclude any business days the President/Vice President, or designee, is out of the office, unless both the employee and the University agree otherwise in writing.
- c. The due process procedure is complete once the university's final decision, prepared in coordination with Human Resources, is delivered to the employee.

## 8. Optional Mediation

- a. The President/Vice President, or designee, and the employee may mutually agree to engage in mediation after the NOCA has been delivered to the employee.
- b. If both parties agree to mediation, the time period for the opportunity to respond and the university's final decision will be suspended pending mediation.
- c. Mediation will not be permitted unless both the President/Vice President, or designee, and the employee agree. Human Resources can assist in identifying a mediator.
- d. The due process procedure may continue if mediation does not result in a mutually agreeable outcome.

## 9. Appeal Procedure

The university's decision may be appealed to the Idaho Personnel Commission within thirty-five (35) calendar days after completion of the due process procedure (delivery of the university's final decision) by completing an [Appeal Form](#) located on the Idaho Division of Human Resources website.

## 10. Protection against Retaliation

Retaliation against any employee who exercises their due process right or who serves as a witness or representative in good faith in a due process procedure is prohibited. Any such retaliation may constitute grounds for Disciplinary Action, up to and including dismissal from employment.

## 11. Forms

Idaho Personnel Commission Appeal Form  
<https://dhr.idaho.gov/idaho-personnel-commission/>

## 12. Related Information

University Policy 7420 (Classified Employees Layoff and Reemployment Preference)  
University Policy 7560 (Problem-Solving Procedure)

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## Revision History

July 1997; August 05, 2022