

SECTION 3: PERSONNEL

SUBJECT: Separation of Classified Employees

Background This policy addresses the separation of classified employees, whether by resignation or dismissal.

Point of Contact: Human Resource Services

Other LCSC offices directly involved with implementation of this policy, or significantly affected by the policy: N/A

Date of approval by LCSC authority: January 24, 2018

Date of State Board Approval N/A

Date of Most Recent Review: 1/2018

Summary of Major Changes incorporated in this revision to the policy: Links to the Division of HR's Rules were updated in some sections; several sections were updated due to updated DHR Rules and Updated SBOE links.

SUBJECT: SEPARATION OF CLASSIFIED EMPLOYEES

Separations of classified staff must be discussed with the Dean and/or VP of the appropriate unit prior to implementation.

1. Resignation

Full-time classified employees who wish to resign should give at least two weeks' notice. Resignations submitted with less than the specified notice may be accepted with prejudice.

2. Failure to meet probation

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

B. Notice to the employee of termination for unsatisfactory service must be made not later than fifteen (15) calendar days prior to the effective date of termination, unless there are extenuating circumstances.

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3. Layoffs

- A. Pursuant to the Division of Human Resources (DHR) Rule 140.01 <https://adminrules.idaho.gov/rules/current/15/150401.pdf> an appointing authority may lay off an employee whenever necessary due to:
- 1) Shortage of funds or work;
 - 2) Reorganization;
 - 3) The end of a limited service appointment;
 - 4) An employee's failure to complete interagency promotional probation when demotion options are not available; or
 - 5) The abolishment of one (1) or more positions
- B. Layoff decisions must not be based on race, color, national origin, gender, age, religion, disability, or political affiliation. Layoffs must be accomplished in a systematic manner with equity for the rights of classified employees and must not do away with an employee's right to problem solving, or appeal if the layoff is in fact a dismissal.
- C. There will be an evaluation of all employees in the classification in the agency or organizational unit affected by the reduction in force based on a retention point system. Retention points are derived from experience as described in performance evaluations and classified credited state service. Qualified veterans are given preference through additional retention points.
- D. In every case of layoff, the departmental administrator must give 15 calendar days notice to the employee and the DHR Administrator concurrently.
- E. The employee who has been laid off, or given official, written notice of a pending layoff date (DHR Rule Subsection 143.05 <https://adminrules.idaho.gov/rules/current/15/150401.pdf>) will be offered reemployment to a position in the classification from which laid off or layoff is pending, before any person outside that agency may be promoted to, transferred to, reinstated or appointed to that classification by an appointing authority of that agency. Appointing authorities may reassign or transfer individuals who are in the same classification within their agency but may not demote, promote, reclassify, or make acting appointments to that classification. If that agency determines a need to fill that classification, the employee scheduled for lay off or who was laid off has first priority for that position. (Ref. Rule Subsections 125.04 and 125.08) Extenuating circumstances due to short term budget, workload, location, or other complexities may be used by the appointing authority to request a temporary waiver of this rule by the administrator.

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- F. An employee who resigns voluntarily, is terminated for cause, or fails to satisfactorily complete the required probationary period is not eligible to be placed on the layoff roster.

4. Dismissal or Suspension

- A. Per SBOE policy (<https://boardofed.idaho.gov/board-policies-rules/board-policies/human-resources-policies-section-ii/policies-regarding-classified-employees-ii-e/>), dismissal or termination of classified employees shall be as provided for in Chapter 53, Title 67, Idaho Code (<https://legislature.idaho.gov/statutesrules/idstat/Title67/T67CH53/>), and rules of the Division of Human Resources (<https://adminrules.idaho.gov/rules/current/15/150401.pdf>).
- B. Suspension means an enforced period of absence, with or without pay, for disciplinary purposes or pending investigation of charges made against an employee.
- C. Grounds for Dismissal or Suspension: Any classified employee may be dismissed or suspended for any of the following causes that occur during the period of his or her employment provided in DHR Rule 190:
- 1) Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes, LCSC rules and regulations, or the Division of Human Resources and Idaho Personnel Commission.
 - 2) Inefficiency, incompetency, or negligence in performing duties, or job performance that fails to meet established performance standards.
 - 3) Physical or mental incapability of performing assigned duties, if a reasonable accommodation cannot be made for the disabling condition.
 - 4) Refusal to accept a reasonable and proper assignment from an authorized supervisor.
 - 5) Insubordination or conduct unbecoming a state employee, or conduct detrimental to good order and discipline in his or her department.
 - 6) Intoxication or being under the influence of alcohol, or the misuse of medications or controlled substances, while on duty.
 - 7) Careless, negligent, or improper use or unlawful conversion of LCSC property, equipment or funds.

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- 8) Use of any influence that violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage.
 - 9) Conviction of official misconduct in office, conviction of any felony, or conviction of any other crime involving moral turpitude.
 - 10) Acceptance of gifts in exchange for influence or favors given in his or her official capacity.
 - 11) Habitual pattern of failure to report for duty at the assigned time and place.
 - 12) Habitual improper use of sick leave.
 - 13) Unauthorized disclosure of confidential information from official records.
 - 14) Absence without leave.
 - 15) Misstatement or deception in his or her application for LCSC employment.
 - 16) Failure to obtain or maintain a current license or certification lawfully required as a condition for performing his or her duties.
 - 17) Prohibited participation in political activities.
- D. Dismissal Procedure: The due process procedure for classified employees' deals with the disciplinary matters set forth in Section 67-5315(2), Idaho Code (<https://legislature.idaho.gov/statutesrules/idstat/Title67/T67CH53/SECT67-5315/>), dismissals, suspensions without pay, and demotions, and with all involuntary transfers. The due process procedure generally requires the employee receive notice and an opportunity to respond before a disciplinary decision or involuntary transfer is made by the agency. Decisions regarding disciplinary dismissals, suspensions without pay, and demotions are appealable in accordance with DHR Rule 201 (<https://adminrules.idaho.gov/rules/current/15/150401.pdf>) of these rules.
- E. Suspension for Investigation: A departmental administrator may place a classified employee on administrative leave pending investigation of disciplinary causes enumerated in Rule 190.01. Each suspension for investigation will be superseded by reinstatement to duty, dismissal, or disciplinary demotion, or suspension within 30 calendar days of the suspension for investigation or within an extension of an additional thirty (30) calendar days approved by the administrator. Further extensions may be granted with the approval of the Administrator.
- F. Suspension on Felony Charges: A departmental administrator may place a classified

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

- G. Disciplinary Suspension: A departmental administrator may suspend without pay a classified employee for discipline for causes enumerated above. Disciplinary suspension of an employee with permanent status is subject to appeal by the employee to the Commission.
- H. Notice to Administrator: Whenever an appointing authority considers it necessary to take disciplinary action against an employee, he must notify the employee and the administrator concurrently in writing; and must set forth the specific rules violated and the reasons for the action. Suspensions with pay for investigation (Ref. Rule 190.02) may be made without prior notice to the employee; in this case, the appointing authority must notify the administrator as soon as practical.