



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

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### MEMORANDUM

**TO:** Senators PATRICK, Agenbroad, Ward-Engelking and,  
Representatives HOLTZCLAW, Anderson, Chew

**FROM:** Matt Drake - Legislative Drafting Attorney

**DATE:** April 02, 2020

**SUBJECT:** Temporary Rule

IDAPA 15.04.01 - Rules of the Division of Human Resources and Idaho Personnel Commission -  
Adoption of Temporary Rule - Docket No. 15-0401-2001

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Matt Drake at the Legislative Services Office at (208) 334-4845. Thank you.

Attachment: Temporary Rule

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**IDAPA 15 – OFFICE OF THE GOVERNOR  
DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION**

**15.04.01 – RULES OF THE DIVISION OF HUMAN RESOURCES  
AND IDAHO PERSONNEL COMMISSION**

**DOCKET NO. 15-0401-2001**

**NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is March 25th, 2020.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 67-5309, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

These temporary rules enforce the 2020 Declaration of Emergency by Governor Brad Little in response to the COVID19 Pandemic, adding flexibility to help manage state personnel leave and physical location.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(a) and, 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These temporary rules add flexibility to help manage state personnel leave and physical location during the 2020 Declaration of Emergency by Governor Brad Little in response to the COVID19 Pandemic.

**FEE SUMMARY:** This rulemaking does not impose a fee or charge.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Krissy Veseth by calling (208) 854-3074.

Dated this 25th day of March, 2020.

Susan E. Buxton, Administrator  
Division of Human Resources  
304 N. 8th Street  
P.O. Box 83720  
Boise, ID, 83720-0066  
Office: 208-334-2263  
Fax: 208-854-3088

**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 15-0401-2001**

**250. SPECIAL LEAVES.**

**01. Leave of Absence Without Pay. (7-1-93)**

**a.** Approval. In addition to workers' compensation, family medical leave, disability, or other statewide leave policies, the appointing authority may grant an employee leave without pay for a specified length of time when such leave would not have an adverse effect upon the agency. The request for leave must be in writing and establish reasonable justification for approval. (5-8-09)

**b.** Reemployment. The appointing authority approving the leave of absence assumes full responsibility for returning the employee to the same position or to another position in a classification allocated to the same pay grade for which the employee meets minimum qualifications. (7-1-87)

**c.** Exhaustion of Accrued Leave. Unless prohibited by workers compensation, family medical leave, disability, or other statewide leave policies, the appointing authority has discretion on whether the employee is required to exhaust accrued vacation leave or compensatory time off for overtime before commencing leave without pay. (Ref. Rule 240) (3-29-17)

**d.** Resignation. If vacation leave and compensatory time off for overtime are not exhausted and the employee resigns from state service while on leave, he will be paid for such accruals in accordance with Sections 67-5334 and 67-5328, Idaho Code. (3-29-17)

**02. Leave Defaults.** When an employee does not have accrued sick leave to cover an entire absence the following leave types will be used to the extent necessary to avoid leave without pay: accrued compensatory time and vacation. If abuse of sick leave is suspected see Rule 240.07. (5-8-09)

**03. Military Leave With Pay.** Employees who are members of the National Guard or reservists in the armed forces of the United States engaged in military duty ordered or authorized under the provisions of law, are entitled each calendar year to one hundred twenty (120) hours of military leave of absence from their respective duties without loss of pay, credited state service or evaluation of performance. Such leave is separate from vacation, sick leave, holiday, or compensatory time off for overtime. (Ref. Section 46-216, Idaho Code). (5-8-09)

**04. Military Leave Without Pay.** An employee whose employment is reasonably expected to continue indefinitely, and who leaves his position either voluntarily or involuntarily in order to perform active military duty, has reemployment rights as defined in Rule 124.05. The employee will either be separated from state service or placed in "inactive" status, at the option of the appointing authority. (5-8-09)

**05. Leave of Absence With Pay.** A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee is compensated. Leaves of absence with pay have no adverse effect on the status of the employee and include the following: vacation leave; sick leave; special leave situations; compensatory time off for overtime worked; and administrative leave. (3-20-14)

**06. Court and Jury Services and Problem-Solving and Due Process Leave. (7-1-98)**

**a.** 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, he is not considered absent from duty. The employee is not entitled to receive compensation from the court. Expenses (mileage, lodging, meals, and miscellaneous expenses) incurred by the employee must be reimbursed by his respective agency in accordance with agency travel regulations. (5-8-09)

**b.** 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 must be permitted to attend. The employee may use accrued leave or leave without pay. (5-8-09)

**c.** Jury Service. When an employee is summoned by proper judicial authority to serve on a jury, he

will be granted a leave of absence with pay for the time which otherwise the employee would have worked. The employee is 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 the state. (5-8-09)

**d.** Problem-solving and due process procedures. Any employee who has been requested to serve as a mediator as provided by an agency problem-solving or due process procedure or to appear as a witness or representative during such a proceeding will be granted leave with pay, without charge to vacation leave or compensatory time off for overtime, to perform those duties. (5-8-09)

**e.** Notification. An employee summoned for court and jury service or requested to serve as a witness or representative must notify his supervisor as soon as possible to obtain authorization for leave of absence. (3-20-14)

**07. Religious Leave.** Appointing authorities will make reasonable accommodations to an employee's need for leave for religious observances. Such leave is charged to the employee's accrued vacation leave or compensatory time off for overtime. (5-8-09)

**08. Leave During Facility Closure or Inaccessibility.** (7-1-93)

**a.** Authorization. When a state office/facility is closed or declared inaccessible by the Governor or Governor's designee because of severe weather, civil disturbances, loss of utilities or other disruptions, affected employees ~~are~~ who are unable to work remotely or be reassigned may be authorized administrative leave by the administrator to cover all or a portion of their scheduled hours of work during the closure or inaccessibility, or subject to a mandatory furlough or a reduction in force. 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. ~~(3-28-18)~~(3-25-20)T

**b.** In the interest of employee safety, appointing authorities 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. Administrative leave or leave without pay will be granted to affected employees scheduled to work on a day the Governor or Governor's designee declares a state office/facility closed or inaccessible in accordance with Rule 250.08.a. ~~(3-28-18)~~(3-25-20)T

**c.** Nothing in this rule prevents an employee that is authorized to code paid administrative leave from choosing to code accrued leave balances or leave without pay. (3-25-20)T

**09. Red Cross Disaster Services Leave.** Employees who have been certified by the American Red Cross as disaster service volunteers will be granted up to one hundred twenty (120) hours of paid leave in any twelve (12) month period to participate in relief services pursuant to Section 67-5338, Idaho Code. (5-8-09)

**10. Employee Assistance Program Leave.** Employees may use sick leave or any paid or unpaid leave as approved to attend appointments through the Employee Assistance Program (EAP) during normal working hours. (3-29-17)

**11. Bone Marrow and Organ Donor Leave With Pay.** (5-8-09)

**a.** Approval. Upon request, a full-time employee will be granted five (5) work days' leave with pay to serve as a bone marrow donor or thirty (30) work days' leave with pay to serve as an organ donor. The employee must provide the appointing authority with written verification that the employee is the person serving as the donor. Paid leave, as provided in these rules, is limited to one-time bone marrow and one-time organ donor leave per employee. (Ref. Section 67-5343, Idaho Code) (5-8-09)

**b.** Use. 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 the employee is considered uninterrupted by the paid leave of absence. (Ref. Section 67-5343, Idaho Code) (5-8-09)