
CLASSIFIED EMPLOYEE PROBLEM-SOLVING AND DUE PROCESS POLICY

PURPOSE: To develop a policy and procedures for classified employees to discuss and resolve job-related issues and to provide due process for disciplinary dismissals, suspensions, demotions and involuntary transfers.

I. THE PROBLEM-SOLVING PROCEDURE

A. Problem-Solving Eligibility

Classified employees with permanent, provisional or entrance probationary status are eligible to use and may file under the Problem-Solving Procedure as defined by Section 67-5315(1), Idaho Code. Boise State University's President and entire administration encourages classified employees to utilize this procedure for resolution of any non-disciplinary job related matter and encourages employees, supervisors, managers and administrators to resolve the matter at the lowest management level possible within Boise State University. Department representatives are encouraged to call Boise State University Human Resource Services for questions and advice to resolve the matter. Any job related matters may be handled through the Problem-Solving Procedure with the exception of the following: (1) compensation except as it applies to alleged inequities within Boise State University; (2) termination during the entrance probationary period (Ref. Sections 67-5309(j), 67-5315(1) Idaho Code and State Division of Human Resources at IDAPA 15.04.01.152 and 15.04.01.153); and (3) the matters set forth in Section 67-5315(2) Idaho Code (dismissals, demotions, suspensions and involuntary transfers).

B. General Information

1. The Problem-Solving Procedure is a chain-of-command process which includes the following steps: (1) meeting with the immediate supervisor; (2) filing for problem-solving; (3) meeting with the Dean or Department Director; and (4) receiving a final decision from the Provost or Vice-President (or designee).
2. If an employee fails to meet any time limits of the Problem-Solving Procedure, the problem will be considered resolved unless both sides agree upon an extension. Time limits specified for requesting the next level of review cannot be extended except when the employee is absent from work due to illness or approved absence. The employee must request the next level of review on the first day the employee returns to work or the matter will be considered resolved or dropped.
3. The intermediate steps of the Problem-Solving Procedure, or the time frames, may be waived upon mutual agreement of the employee, supervisor and Dean

or Director level. Internal time periods of the procedure may be extended when the employee, immediate supervisor, Director/Dean, Provost or appropriate Vice President is not available due to illness or other approved absence, but in no case longer than ten (10) working days after their return unless expressly agreed upon by both parties in writing.

4. The employee and other staff involved, upon approval of their respective immediate supervisor(s), will be allowed regular work time for problem resolution discussions as related to the Problem-Solving Request.
5. Two (2) or more employees may join in a single filing under the Problem-Solving Procedure.
6. If the filing alleges predominately sexual harassment or discrimination based on race, color, sex, national origin, religion, age, or disability, it shall be referred to the Affirmative Action Director for review and application of appropriate Boise State University policies.
7. Problem-Solving Request Forms are available in the Boise State University Human Resource Services Office located in the Administration Building-A218, or on-line at <http://hrs.boisestate.edu>

C. Representation

1. The employee is entitled to be represented by a person of his or her choosing at each step of the Problem-Solving Procedure, except the initial informal discussion with the immediate supervisor.
2. Employees are responsible for notifying representatives of the time and place for any 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.

D. Optional Mediation

1. The department and employee may mutually agree in writing to engage in mediation during the Problem-Solving Procedure. If both sides agree, the other steps and time limitations (except for the initial ten (10) working day filing requirement) of the Problem-Solving Procedure will suspend pending mediation. The department and employee must agree upon a mediator. Human Resource Services can assist with providing mediator names. Mediation is not possible unless both the department and employee agree.

E. Prohibitions

1. No employee shall be disciplined or otherwise prejudiced in his or her employment for exercising his or her rights under the Problem-Solving Procedure. No supervisor or any other official of the University may retaliate against an employee for:
 - a) Filing under this Problem-Solving Procedure.
 - b) Participating as a witness or an employee representative.
 - c) Assisting another employee in preparing a Problem-Solving Request.

F. Problem-Solving Procedure Steps

1. Step One - Meeting with Immediate Supervisor.
 - a) Before actually filing for problem-solving, an eligible employee must first make a reasonable attempt to meet with and resolve the matter(s)

with his or her immediate supervisor. Representatives are not permitted at the informal meeting with the immediate supervisor.

- b) Employees and supervisors are strongly encouraged to engage in an informal problem-solving meeting in order to identify the precise matter(s) at issue, discuss ways to resolve the matter(s) and, hopefully, resolve the matter(s) at the lowest level possible.
- c) If Step 1 did not result in resolution of the problem(s), an employee may proceed to Step 2 of this procedure.

2. Step Two – Filing for Problem-Solving.

- a) Eligible employees seeking to utilize the Problem-Solving process are required to file for Problem-Solving in writing no later than ten (10) working days after being notified of an action, becoming aware of the issue or problem, or when discussions with the immediate supervisor to resolve the issue have reached an impasse.
- b) The time limit for filing for Problem-Solving does not include days the employee is away from work due to illness or other approved absence. The ten (10) working day calculation does not include the day on which the problem occurred, but does include administrative leave. However, if the filing alleges an on-going pattern of harassment or illegal discrimination, the time limit shall begin upon the last incident that occurs. The time limit for filing shall be extended due to an employee's illness or other approved leave up to ten (10) days after return to the job.
- c) The employee must file the Problem-Solving Request Form with his or her immediate supervisor with a copy sent to the Dean or Department Director and Human Resource Services. The University may accept a late filing, but the employee loses any right of review by the Idaho Personnel Commission (per the State Division of Human Resources Appeal Process) by not complying with the ten (10) working day time limit.

3. Step Three - Meeting with the Dean or Department Director

- a) The employee will meet with the Dean or Department Director no later than five (5) working days after filing for Problem-Solving. The Dean or Department Director will consult with the employee's immediate supervisor to determine who may be best able to resolve the problem in this meeting with the employee. The Dean or Department Director may also take into account the employee's preference (as requested in the Problem-Solving Request Form) in deciding who should be present. Since the goal of this procedure is to resolve problems at the lowest level possible, the meeting may involve the immediate supervisor and any additional people who may be helpful in resolving the issue(s). The Dean or Department Director is responsible for scheduling the meeting and determining who should attend besides the employee and the employee's representative, if any.
- b) The employee will receive a written suggested solution from the Dean or Department Director no later than five (5) working days after the

meeting. A copy will be sent to the immediate supervisor and Human Resource Services.

- c) If the employee is not satisfied with the Dean or Department Director's recommended solution, s/he may request in writing a review by the Provost or Vice-President no later than three (3) working days after receiving the Dean or Department Director's suggested solution. To request a review the employee shall file the written request on the Problem-Solving Request Form and submit it to Human Resource Services and the Provost or appropriate Vice President. HRS will provide the Provost or appropriate Vice President a copy of the Problem-Solving written record.

4. Step Four – Final Decision.

- a) The Provost or Vice President or designee may review the written record, and/or consult with the employee, immediate supervisor, Dean or Department Director, and any others in order to determine how best to resolve the issue. The employee will receive a final decision from the Provost/Vice-President or designee no later than five (5) working days after a request for review is submitted, or a meeting is held as determined by the Provost, Vice President or designee. A copy of the final decision will be sent to Human Resource Services, the Dean or Department Director and immediate supervisor. Problem-Solving decisions are not generally appealable, but under certain conditions, the employee has the right to appeal the University's decision to the Idaho Personnel Commission within thirty-five (35) days.

II. THE DUE PROCESS PROCEDURE

A. Due Process Procedure

All permanent classified employees are entitled to due process before the University makes any decision to impose any disciplinary sanction or involuntary transfer, dismissal, suspension, demotion as set forth in Section 67-5315(2) Idaho Code. Due Process requires the University to provide the employee with a notice of the contemplated action, the basis or reason for contemplated action, and explanation of the evidence supporting the contemplated action, and an opportunity to be heard before a decision is made. Any University department considering disciplinary action, must contact Human Resource Services to review the recommended action and documentation and to assist with implementing appropriate action.

1. Step One – Notice

If Boise State University is contemplating disciplinary action to or involuntary transfer of a permanent classified employee; the department must provide concurrent notice of the contemplated action to the employee and the State Division of Human Resources administrator in writing.

- a) Notice of the Contemplated Action: The Dean or Department Director will provide an explanation and a recommendation for action in writing to Human Resource Services for review based on information from the immediate supervisor, if applicable. A notice of contemplated action will be prepared and signed by the Dean or Department Director in cooperation with Human Resource Services. The employee and

State Division of Human Resources Administrator will be provided with concurrent notice of the contemplated action(s).

- b) Contents of the Notice of Contemplated Action must include:
 - (1) Action contemplated (i.e., dismissal, suspension, demotion, or involuntary transfer).
 - (2) The legal basis (for-cause reason and corresponding legal citation) for this action or for-cause reason for this action. The State Division of Human Resources reasons are listed in Idaho Code Section 67-5309(n) and in the State Division of Human Resources at IDAPA 28.01.01.190.01.
 - (3) An explanation of the information or evidence pertinent to the contemplated action.
 - (4) The time frames for the response. The notice of contemplated action will be sent or delivered to the employee and to the State Division of Human Resources by Human Resources Services concurrently.

2. Step Two - Opportunity to Respond

- a) A permanent classified employee who receives a notice of contemplated action is entitled to an opportunity to respond in writing. This step provides the employee an opportunity to respond to the notice and present his or her reason(s) why the contemplated action(s) should not be taken. The employee must act upon the opportunity to respond within the time period indicated in the notice, otherwise the opportunity is deemed waived by the employee. The response, if any, shall be provided by the employee to the Dean or Department Director, Provost or appropriate Vice President, and Human Resource Services.
- b) Time Period to Respond: The notice of contemplated action provides a set time period of up to ten (10) working days within which an employee may respond after the receipt of notice. The Dean or Department Director may not extend the time period for a response, unless both the Dean or Department Director and employee agree to file an extension in writing.
- c) Right to Representation: The law provides an employee with the right to be represented by a person of his or her choosing during the opportunity to respond.

3. Step Three - University's Decision

- a) The Provost, Vice-President, or their designee shall make and implement the final decision and shall notify the employee of the final decision no later than ten (10) working days after the employee has responded in writing, failed to respond, or otherwise waived his or her right to respond in writing. The University's final decision will be sent or delivered to the employee and a copy will be concurrently sent to Boise State University Human Resource Services.
- b) The Due Process Procedure is completed when the Provost, Vice-President, or designee notifies the employee of the University's decision. Boise State University Human Resource Services will

coordinate processing the University's final action and concurrently notifying the State Division of Human Resources. If a disciplinary sanction or involuntary transfer is imposed, it may be implemented immediately.

- c) The employee has the right to appeal the University's disciplinary decision to the Idaho Personnel Commission within thirty-five (35) days.

4. Optional Mediation Step

The Dean or Department Director and employee may mutually agree to engage in mediation after notice of contemplated action has been sent during the Due Process Procedure. If both sides agree, the time limitations for the opportunity to respond and the department's decision will be suspended pending mediation. Mediation is not possible unless both the Dean or Department Director and employee agree. Human Resource Services can assist in identifying a mediator.