



## BOISE STATE UNIVERSITY

University Policy 7450

# Classified Employees Due Process Procedure and Appeal

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### **Effective Date**

July 1995

### **Last Revision Date**

July 1997

### **Responsible Party**

Vice President and Chief Financial Officer, (208) 426-1200  
Human Resources, (208) 426-1616

### **Scope and Audience**

This policy applies to all Classified employees.

### **Additional Authority**

- Idaho Code §§67-5309, 67-5315(1)(2), and 67-5316
  - IDAPA 15.04.01.183-190
  - IDAPA 15.04.01.200-201
  - University Policy 7440 (Classified Employee Problem-Solving Process)
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## **1. Policy Purpose**

To provide Classified Employees due process for disciplinary actions.

## 2. Policy Statement

Boise State University provides Employees with a Due Process Procedure, in Section 4.1 below, to use before any disciplinary-related sanctions, such as dismissals, suspensions, and demotions, are imposed for violations of University policy/procedure, or state rules or statutes. The goal, however, is to always resolve matters at the lowest management level possible, without Disciplinary Action. Boise State offers tools for achieving this, including mediation and alternative dispute resolution. Non-disciplinary actions are covered under University Policy 7440 which outlines the Classified Employee Problem-Solving Process.

## 3. Definitions

### 3.1 Employee

For the purposes of this policy, a non-temporary, classified staff Employee.

### 3.2 Disciplinary Action

The dismissal, suspension, demotion, involuntary transfer, or the reduction in pay of an Employee, resulting from a violation of University policy or procedure, or state rules or statutes.

### 3.3 Due Process Procedure

A procedure designed for use when Disciplinary Action is being taken by Boise State against an Employee.

## 4. Responsibilities and Procedures

### 4.1 The Due Process Procedure

All Employees are entitled by law to due process before Boise State makes any decision to impose any Disciplinary Action. Any University department considering Disciplinary Action must contact Human Resources to review the recommended action, associated documentation and to assist with implementing appropriate action. The Due Process consists of the following:

#### 4.1.1. Notice

- a. If Boise State is contemplating Disciplinary Action against an Employee, the department must provide a Notice of Contemplated Action (NOCA) to the Employee and the Idaho Division of Human Resources (DHR) Administrator.

- b. The NOCA will be developed by the Dean or Department Director and Human Resources. The Dean or Department Director prepares and signs the NOCA in cooperation with Human Resources and delivers it to the Employee.
- c. Contents of the NOCA must include:
  - (i.) Disciplinary Action contemplated (e.g., reduction in pay, dismissal, suspension, demotion, or involuntary transfer).
  - (ii.) The basis for the Disciplinary Action (and corresponding legal citation). Disciplinary Actions may be taken for Employees for any of the reasons listed in Idaho Code section §67-5309(n) and in [IDAPA 15.04.01.183-190](#).
  - (iii.) An explanation of the information and evidence pertinent to the contemplated action.
  - (iv.) The time frames for responding, and to whom to send the response.

#### 4.1.2. Opportunity to Respond

- a. An Employee who receives a NOCA may respond in writing; the response, if any, shall be provided to the appropriate President/Vice President and Human Resources. This step provides the Employee an opportunity to respond to the notice and present 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 NOCA, otherwise the opportunity is deemed waived by the Employee.
- b. Time Period to Respond: Upon receipt of a NOCA, an Employee or his/her representative has a maximum of ten (10) working days to respond in writing. The time period to respond may not be extended unless both the President/Vice President and Employee agree to an extension in writing.
  - (i.) Right to Representation. Any Employee has the right to be represented at any time during the process by a person of his or her choosing during this procedure. If an Employee chooses to be represented, he/she (or the representative) must notify the President/Vice President who issued the NOCA and copy Human Resources. Options for representation are discussed on the [Human Resources website](#).
  - (ii.) Optional Mediation. 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 Resources can assist in identifying a mediator.

#### 4.1.3 University's Decision

- a. The President/Vice President or their designee shall make and implement the final decision and notify the Employee of the final decision no later than ten (10) working days after the Employee has responded in writing, failed or declined to respond, or otherwise waived his or her right to respond in writing. The University's final decision, prepared in coordination with Human Resources, will be sent or delivered to the Employee.
- b. The Due Process Procedure is completed when the President/Vice President, or designee notifies the Employee of the University's decision. Human Resources will coordinate implementation of the University's final action and notify the Idaho Division of Human Resources.

#### 4.2 Appeal

The Employee may appeal the University's disciplinary decision to the Idaho Personnel Commission within thirty-five (35) calendar days of the decision.

#### 4.3 No Retaliation

Employees shall not be retaliated against for utilizing the Due Process Procedure or for serving as a witness or representative in a Due Process Procedure. Any such retaliation is expressly prohibited and may constitute grounds for discipline, up to and including dismissal, against the retaliatory Employee.

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### Revision History

July 1997; September 2004; March 2015