PREAMBLE: This section outlines procedures for the dismissal of tenured faculty and of untenured faculty who are being dismissed before the end of their current term of appointment. It was a part of the 1979 Handbook, though in that document it included non-faculty exempt employees as well. It was thoroughly revised in July of 1989 to reflect changes in regents’ policy and divided into faculty and non-faculty exempt sections in July of 1996. The whole of the policy was substantially revised, and sections E and F rewritten, in July 1999 so as to conform the university’s policy with that of the Regents. Non-tenured faculty should also consult section 3900 “Non-Reappointment of Non-Tenured Faculty.” Further information may be obtained from the Provost’s Office (208-885-6448) or the Office of the Faculty Secretary (208-885-6151). [rev. 7-99]

CONTENTS:
A. Regents' Authority  
A-1. All employees of the Regents or of the agencies, institutions, school, or office under its jurisdiction are subject to dismissal for adequate cause during the period of employment. "Adequate Good cause" means 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 his or her professional or assigned duties or the best interests of the regents, institution, agency, school, or office. In addition, any conduct seriously prejudicial to the regents, an institution, agency, school or office may constitute adequate cause for discipline up to and including dismissal. Examples include harassment prohibited by law, immorality, criminality, dishonesty, unprofessional conduct, actions in violation of policies, directives, or orders of the Regents, an institution, agency, school or office, unsatisfactory or inadequate performance of duties, or failure to perform duties. [See IDAPA 08.01.02.104 RGP III] [add. 7-99]

A-2. Dismissal of faculty is as provided in the regents’ rules IDAPA 08.01.02.204 policy RGP III. [add. 7-99]

B. Cause for Termination Dismissal

B-1. Termination (as opposed to non-renewal of a non-tenured faculty member) by UI of the employment of a faculty member, except in the case of resignation or retirement, will be only for good adequate cause as defined above in A-1. [rev. 7-99]

B-2. As provided in 3970, any faculty member may be laid off in conjunction with a reduction in force approved by the regents and resulting from a declaration of financial exigency.

B-3. Definition of Cause. Any conduct seriously prejudicial to UI may constitute cause for dismissal or termination of any employee. Examples include, but are not limited to, immorality, criminality, dishonesty, unprofessional conduct, actions in violation of policies, directives, or orders of the Regents, unsatisfactory or less than adequate performance of his or her assigned or contractual duties, or failure to perform his or her assigned or contractual duties. Good cause is defined above in A-1. [See IDAPA 08.01.02.204.03] [add. 7-99]

B-4. Violation of Sections 33-3715 and 33-3716, Idaho Code, or violation of any law which results in a felony conviction of a faculty member may be cause for dismissal from the UI. Dismissal must be preceded by the procedures outlined below and in regents policy. It is not necessary that such violations be committed on the campus of the UI unless the same is a material element of such violation. [See IDAPA 08.01.02.204.04] [add. 7-99]

C. Suspension Administrative Leave. A faculty member may be suspended placed on administrative leave with pay pending the procedures set forth in this section. It:

C-1. Without the approval of the president, a faculty member for reasons other than illness fails to meet his or her teaching responsibilities or other assigned duties. [rev. 7-99]

C-2. Immediate harm to the faculty member or others is threatened by continuance of the employee’s services. [rev. 7-99]

C-3. The faculty member violates Sections 33-3715 and 33-3716, Idaho Code or any law which results in a felony conviction. It is not necessary that such violations be committed on the campus of the UI unless the same is a material element of such violation. [See IDAPA 08.01.02.204.04] [add. 7-99]
D. UI PROCEDURES RELATED TO DISMISSAL. In each case, the issue of whether or not good adequate cause for termination or dismissal exists is to be determined by an equitable procedure, affording protection to the rights of the faculty member and to the interests of the state of Idaho and its system of higher education. The burden of proof that good adequate cause exists rests with the institution and its administrative officers, and will be satisfied only by clear and convincing evidence in the record considered as a whole. [ed. 7-99]

D-1. Departmental, Division, and College Action. When reason arises to question the fitness of a faculty member, the immediate supervisory officer discusses the matter with the employee in a confidential personal conference. It is the duty of the immediate supervisor and the faculty member to make a good faith effort to correct any and all deficiencies in the faculty member’s performance. Departments, divisions, or colleges are to establish policies and procedures for identifying problems, suggesting remedial actions, and assisting the faculty member in becoming a productive member of the university community. These procedures are to include peer input and are to be fully integrated with the annual evaluation process. A good faith effort must be made to identify and resolve performance problems at the lowest administrative level.


a. If remedial performance adjustments do not result, the provost shall determine whether formal dismissal proceedings should be initiated. [rev. 7-99]

b. If the provost determines that formal proceedings should be initiated, he or she should formulate a written statement with reasonable particularity of the grounds proposed for the dismissal [rev. and renumbered 7-99]

c. Nothing in these procedures prevents the provost from withdrawing the fitness complaint from the process, at any time for any reason. However, the provost must either withdraw the complaint or proceed with the dismissal process within a reasonable period of time. [rev. and renumbered 7-99]

d. The statement of particularity is communicated, in writing, to the faculty member by the provost and delivered personally or sent first-class mail, postage pre-paid to the employee at the last known address on file for the employee. [rev. and renumbered 7-99]

D-3. Dismissal Hearing Committee. [renumbered 7-99]

a. If the faculty member requests a hearing to determine whether the termination is properly based on the grounds stated, one will be conducted by a Dismissal Hearing Committee (DHC) at a specified time and place. The faculty member must file a written request with the provost for a hearing within seven working days of receipt of the provost’s communication of particulars. If the faculty member has not requested a hearing, the statement of particulars constitutes the dismissal recommendation, which the provost may communicate to the president without further delay. [rev. and renumbered 7-99]

b. The DHC is composed of five employees, including four faculty members and one administrator at the departmental level or above appointed by the Committee on Committees. Six faculty members and three administrators are also appointed as alternates. The faculty member has the right to substitute up to two members appointed with two others from the alternate list. If as a result of substitutions and conflicts of interest there are an insufficient number of faculty members or administrators on the alternate list, the Committee on Committees will be asked to appoint more members to the alternate list as needed. Committee members are chosen on the basis of their objectivity and competence and the high regard in which they are held in the UI community. In appointing members of the DHC the Committee on Committees should attempt to reflect the diversity of the UI faculty. The term of membership on the Committee is two years, with initial terms staggered to form a rotation pattern. The committee elects its own chair. [rev. and renumbered 7-99]

c. The DHC proceeds by considering the provost’s recommendation and statement of grounds for dismissal already formulated, the evidence supplied to support the dismissal recommendation, and the employee’s response written before the time of the hearing. If any facts are in dispute, the testimony of witnesses and other evidence concerning the matter set forth in the letter of particulars to the faculty member become part of the hearing record. [rev. and renumbered 7-99]

d. The DHC determines the order of proof, conducts the questioning of witnesses, and, if necessary, secures the presentation of evidence important to the case. [rev. and renumbered 7-99]

e. The faculty member has the option of assistance by counsel; the faculty member, the provost, and their counsels have the right, within reasonable limits, to question all witnesses who testify orally. The faculty member has the opportunity to confront all adverse witnesses. All evidence is duly recorded. [rev. and renumbered 7-99]

f. If a question of timeliness arises during these procedures, the DHC will review the action of the delinquent party and determine whether the dismissal procedures will continue, as outlined above. [rev. and renumbered 7-99]

g. The DHC reaches its decision in conference within five working days of the formal hearing’s close, solely on the basis of the record of the hearing. It makes explicit findings with respect to each of the grounds for removal presented or remedial actions, and renders a reasoned opinion. The provost, the president and faculty member are notified of the decision in writing and given a copy of the record of the hearing; the college and department or division concerned are notified of the decision. [rev. and renumbered 7-99]

D-4. Presidential Recommendation. [rev. and renumbered 7-99]
a. The president, after due consideration of the DHC’s recommendation, shall initially determine whether he or she agrees or disagrees with the DHC’s recommendation. In the event of disagreement, the president shall meet with the DHC to discuss the reasons for the president’s disagreement prior to reaching a final recommendation.

b. The notice from the president must be in writing and will be personally served on the employee or be sent by certified mail, return receipt requested, first-class mail, postage pre-paid to the employee at the last known address on file for the employee. The notice must contain a concise statement of the charges against the employee, the findings of fact that are the basis for the president’s recommendation, discontinuance of employment, and any conditions imposed on the continuance of employment. If the president’s decision is for dismissal, the faculty member receives a statement of all rights and procedures for appeals of the president’s decision to the Faculty Appeals Hearing Board or directly to the regents. [rev. and renumbered 7-99]

c. For the purpose of dismissal-for-cause procedures only, the FAHB hearing procedures have an expanded scope. Specifically, in accord with its current procedures, the FAHB may hear and decide on the regularity and appropriateness of process, procedures, factual basis, and timeliness in the dismissal recommendation or the recommendation for continuance of employment, with the stated conditions. [ed. 7-99]

d. The regents require that the appeal of a dismissal for cause to the FAHB be completed within a 30 day period. [See IDAPA 08.01.02.104.03.b] [add. 7-99]

e. The president, after due consideration of the FAHB’s recommendation, shall initially determine whether he or she agrees or disagrees with the FAHB’s recommendation. In the event of disagreement, the president shall meet with the FAHB to discuss the reasons for the president’s disagreement prior to reaching a final recommendation. The president shall send to the FAHB and to the appellant a written report of the basis for the president’s decision.

E. TRANSMITTAL OF THE PRESIDENT’S RECOMMENDATION TO THE REGENTS. The president must notify the regents, in writing, of his recommendation for dismissal concisely stating the reasons therefor including the findings of fact that are the basis for the recommendation of dismissal. In arriving at the recommendation, the president may utilize whatever advice he may require to ascertain the facts in the case. The president may forward a copy of the complete record of on-campus proceedings to the regents. The president will notify the regents of his recommendation following the faculty member’s appeal to the FAHB or after the time for the faculty members’ appeal to the FAHB has expired. [See IDAPA 08.01.02.204.06.b] [rev. 7-99]

E. UI PROCEDURES RELATED TO DISCIPLINE OTHER THAN DISMISSAL

E-1. The regents provide the following relative to discipline other than dismissal:

In each case the issue of whether or not adequate cause exists should be determined fairly by the institution, agency, school, or office recognizing and affording protection to the rights of the employee and to the interests of the Board and its institutions, agencies, school, or office.

a. Discipline, up to and including dismissal, of employees before the expiration of the stated period of appointment or employment contract will be only for adequate cause, as determined by the appropriate administrative officers to whom this responsibility is delegated by the chief executive officer of the institution. Each institution, agency, school or office shall have a process that provides employees with written notice of contemplated discipline and an opportunity to be heard. The employee may be placed on administrative leave with pay until he or she has exercised the opportunity to respond, or declined, either affirmatively or through inaction, to do so, and the recommendation has been acted upon by the chief executive officer or designee. The chief executive officer or designee must notify the employee of the recommendation and proceed in the following manner:

1. The notice must be in writing, and may be personally served upon the employee, or be sent by first-class mail, postage pre-paid, to the employee at the last known address on file for the employee.

2. The notice must contain a concise statement of the reasons and nature of the discipline.
E-2. UI Process. The provost has authority to determine if adequate cause has been established and if discipline other than dismissal should be taken. The provost may place the faculty member on administrative leave pending the final decision by the provost. Before final decision, the provost will provide the faculty member with a written statement setting forth with particularity the basis for the contemplated discipline and any information or material used to formulate the determination of adequate cause. The faculty member must be notified that he or she has fifteen (15) calendar days, or more in the discretion of the provost, in which to respond or decline to respond affirmatively or through inaction. After the period to respond expires the provost must notify the faculty member of his or her decision as required in the regents’ policy quoted above.

E-3. Following the imposition of discipline, the faculty member may use the FAHB (FSH 3840) to appeal the decision.

F. APPEALS TO THE REGENTS. Upon receipt of the final findings and recommendations, including those resulting from an internal grievance, a faculty member may file an appeal with the regents as set forth in RGP IIM (see below). The regents may if the choose to here an appeal, by a majority of the total membership, approve, reject, or amend such findings, recommendations, or suggestions, if any, or may remand the matter for additional evidence, recommendations, or suggestions, if any. Reasons for suggestions will be stated in writing and communicated to the employee. The Board may employ a hearing officer for carrying out the Board’s duties under this paragraph. (RGP L4)

RGP IIM provides: A nonclassified employee may elect to petition the Board to review any final personnel related decision of the chief executive officer. Any written petition must be filed in the Office of the State Board of Education within fifteen (15) calendar days after the employee receives written notice of final action under the internal procedures of the institution, agency, school, or office. The Board may agree to review the final action, setting out whatever procedure and conditions for review it deems appropriate, or it may choose not to review the final action. The fact that a written petition has been filed does not stay the effectiveness of the final decision nor does it grant a petition for review unless specifically provided by the Board. Board review is not a matter of right. An employee need not petition the Board for review in order to have exhausted administrative remedies for the purposes of judicial review. Should the employee appeal directly to the regents, he or she must notify the regents, in writing at the Office of the State Board of Education that he or she appeals within thirty (30) days from the date of receipt of the notice given by the president. The rules of the regents applicable to the hearing are found in the Idaho Administrative Procedures Act Rules Section 08.02.204 a copy of which can be obtained from the Office of the Faculty Secretary. [rev. 7-99]