



Idaho State University

POLICIES AND PROCEDURES

Non-Renewal of Employment Contract

ISUPP 3030

POLICY INFORMATION

Policy Section: *Human Resources*

Policy Title: *Non-Renewal of Employment Contract*

Responsible Executive (RE): *AVP of Human Resources*

Sponsoring Organization (SO): *Office of Human Resources*

Dates: Effective Date: *September 9, 2013 (4-12-16)*

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I. INTRODUCTION

Non-classified employees and non-tenured faculty of Idaho State University who hold employment contracts will have fixed terms of employment. Employment beyond the contract period may not be legally presumed as the University reserves the right to nonrenew the contract of a non-classified employee or non-tenured faculty member as needed. This policy serves as a point of reference regarding the process steps and notification requirements for when the decision is made to non-renew the contract of a non-classified employee or non-tenured faculty member. This policy does not apply to classified employees and tenured faculty.

II. POLICY STATEMENT

Non-classified employees and non-tenured faculty are salaried employees of Idaho State University and are not subject to the administrative rules of the Idaho Division of Human Resources and Personnel Commission and therefore have fixed terms of employment. No contract of employment with such an individual may exceed one (1) year without the prior express approval of the Idaho State Board of Education (SBOE), with the exception of employment agreements for athletic directors and coaches as set forth in section II.H of SBOE policy. Employment beyond the contract period may not be legally presumed. Renewal of an employment contract is subject solely to the discretion of the President or designee of the President and, where applicable, the SBOE.

III. AUTHORITY AND RESPONSIBILITIES

- A. The Office of Human Resources is responsible for maintaining this policy and assisting departments with the process of contract non-renewal. The Office of Human Resources will assist all levels of management with this process, including the official notification of contract non-renewal.
- B. Supervisors, Department Heads, and Department Chairs are responsible for contacting the Office of Human Resources to review this policy in relation to employment contracts that are being considered for non-renewal. After consulting with their Dean or respective manager and the Office of Human Resources, Supervisors, Department Heads and Department Chairs are responsible for making recommendations for contract nonrenewal through the chain of command as appropriate.
- C. The Provost or designee of the Provost such as a College Dean is responsible for contacting the Office of Human Resources to review this policy in relation to employment contracts that are being considered for non-renewal. The Provost or designee of the Provost who has the authority to issue employment contracts to nontenured faculty members is responsible for the official notification of contract nonrenewal for those respective contracts with the assistance of the Office of Human Resources.
- D. The President or designee of the President such as a Vice President or comparable level executive is responsible for contacting the Office of Human Resources to review this policy in relation to employment contracts that are being considered for non-renewal. The President or designee of the President who has the authority to issue employment contracts to non-classified employees or non-tenured faculty members is responsible for the official notification of contract non-renewal for those respective contracts with the assistance of the Office of Human Resources.

IV. PROCEDURES TO IMPLEMENT

A department that may have a need to non-renew the contract of faculty or staff as described in this policy should contact the Office of Human Resources to review related contract dates and notification requirements. If a need to non-renew a contract has been identified, departments, under guidance from the Office of Human Resources, should submit a written recommendation for non-renewal of contract through the chain of command to their respective Vice President or respective executive who issued the employment contract needing to be non-renewed. If supported by executive management, official notice of contract non-renewal will be sent by the respective

Vice President, or executive who issued the employment contract needing to be non-renewed. Procedures to implement are described as follows:

A. Non-renewal of Non-Classified Employees

1. Notice of Non-renewal

Notice of the decision of the President or designee of the President to non-renew a contract of employment of an administrative non-classified employee must be given in writing to the employee at least sixty (60) calendar days before the end of the existing period of appointment.

2. Reasons for Non-renewal

Reasons for non-renewal need not be stated. Non-renewal of non-classified employees without cause is the legal right of the President or designee of the President, as stipulated in SBOE policy (section II, sub-section F.). If any reasons for non-renewal are provided to the employee for information, it does not convert the non-renewal to dismissal for cause and does not establish or shift any burden of proof. Failure to give timely notice of non-renewal because of mechanical, clerical, mailing, or similar error is not deemed to renew the contract of employment for another full term, but the existing term of employment must be extended to the number of days necessary to allow sixty (60) calendar days' notice to the employee.

3. Grievance of Non-renewal

Except as set forth in this paragraph, non-renewal is not a decision that can be grieved within the University nor is it appealable to the SBOE. However, if an employee presents bona fide allegations and evidence in writing to the President that the nonrenewal of the contract of employment was the result of discrimination prohibited by applicable law; the employee is entitled to use the internal discrimination grievance procedure to test the allegation. The normal internal grievance procedure for discrimination must be used unless changed by mutual consent of the parties. The ultimate burden of proof rests with the employee. The University is required to offer evidence of its reasons for non-renewal only if the employee has made a prima facie allegation showing that the recommendation of nonrenewal was made for reasons prohibited by applicable law. Unless mutually agreed to by the parties in writing, the use of the discrimination grievance procedure will not delay the effective date of nonrenewal. Following the discrimination grievance procedures, if any, the decision of the University is final.

4. Petition to the SBOE

If, and only if, the chief executive officer is the subject of alleged discrimination prohibited by applicable law as described in section IV.A.3, the non-classified contract employee may petition the Board to review the final action of the institution. Any

petition for review must be filed at the Office of the State Board of Education within fifteen (15) calendar days after the employee receives notice of the final action. 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 action. The fact that a review petition has been filed will not stay the effectiveness of the final action, nor will the grant of petition for review, unless specifically provided by the Board. Board review is not a matter of right. An employee need not petition for Board review in order to have exhausted administrative remedies for purposes of judicial review. Nothing in this section should be construed as any prohibition against filing a complaint with any appropriate state or federal entity, including but not limited to the Equal Employment Opportunity Commission (EEOC), or the Idaho Human Rights Commission (IHRC).

5. Financial Exigency

Notice of non-renewal is not required when the SBOE has authorized a reduction in force resulting from a declaration of financial exigency and a non-classified employee is to be laid off. In that event notice of layoff must be given as provided under the policies for reduction in force.

B. Non-renewal of Non-tenured Faculty Members, Including Non-Tenured Faculty Members in the College of Technology.

1. Notice of non-renewal from the Provost or designee of the Provost must be given in writing and in accordance with the following criteria.

- a. First Year of Service – Not later than March 1 of the first full academic year of service if the appointment is not to be renewed at the end of the academic year; or if a one-year appointment terminates during an academic year, and is not to be renewed, at least three (3) months in advance of its termination.
- b. Second Year of Service – Not later than December 15 of the second full academic year of service if the appointment is not to be renewed at the end of the academic year; or if the appointment terminates during an academic year, and is not to be renewed, at least six (6) months in advance of its termination.
- c. Three (3) or More Years of Service – Not later than July 15 preceding the academic year at the end of which the appointment is to be terminated; or, if the appointment terminates during an academic year and is not to be renewed, at least twelve (12) months in advance of its termination.
- d. Failure to provide timely notice of non-renewal because of mechanical, clerical, or mailing error does not extend or renew the letter or contract of employment for another term, but the existing term of employment will be extended to provide the employee with a timely notice of non-renewal.

2. Financial Exigency

Notice of non-renewal is not required when the SBOE has authorized a reduction in force resulting from a declaration of financial exigency and a non-tenured faculty member is to be laid off. In that event, notice of layoff must be given as provided under the policies for reduction in force.

3. Notice of non-renewal is not required for non-tenured faculty in the College of Technology when the Idaho State Board of Professional-Technical Education finds that one (1) or more conditions exist pursuant to Section 101 of the Rules Governing Postsecondary Program Reduction or Termination, IDAPA 55.01.02.101. In that event, notice of layoff must be given under the policies for reduction in force.

4. Request for Review

Non-renewal of non-tenured faculty at the end of their term of appointment is not subject to investigation or review except that the employee may request an investigation or review to establish that written notice was or was not received in accordance with the time requirements set forth in this section. In such cases, the investigation or review will be concerned only with manner and date of notification of non-renewal and will not consider grounds for non-renewal. The employee must request such investigation or review in writing of the Provost within fifteen (15) days of receipt of the written notice of non-renewal.

Provided, however, that if the non-tenured faculty member presents bona fide allegations and evidence in writing to the Provost that the non-reappointment was the result of discrimination prohibited by applicable law, the non-tenured faculty member is entitled to use the internal discrimination grievance procedure to test the allegation. In such cases, the same procedures, burden of proof, time limits, etc., as set forth for the grievance of non-renewal by non-classified employees shall be used.

5. Reasons for Non-renewal

Non-tenured faculty members who are notified that they will not be reappointed or that the succeeding academic year will be the terminal year of appointment, in accordance with this section, are not entitled to a statement of the reasons upon which the decision for such action is based. No hearing to review such a decision will be held.

V. RELATED LAWS, RULES, AND POLICIES

A. ISU Policies and Procedures <https://www.isu.edu/policy/>

1. Section I. Governance/Legal <https://www.isu.edu/policy/governancelegal/>
 - a. ISUPP 1110 *Equal Opportunity, Anti-Harassment, and Non-Discrimination*

