

Appeal Summary

Disclaimer

The material contained in this document has been prepared for general reference purposes only and is not intended nor implied to be a substitute for professional legal advice. It is recommended that you contact your Human Resource Department or Deputy Attorney General for agency-specific situations.

Reference

- Idaho Code: 67-5316 APPEAL PROCEDURE
- IDAPA 15.04.01.201 APPEAL PROCEDURE

Purpose

To provide a process for classified employees having permanent status (satisfactory completion of the probationary period) to contest certain employment actions of a state agency.

Important note: Retaliation against an employee for participating in or asserting his or her rights with respect to the due process procedure is expressly prohibited.

General Overview

An appeal is a written request by an employee for an administrative hearing to contest a disciplinary action or upon the completion of a problem solving involving, the denial of a right or benefit to which the employee is entitled. Disciplinary actions are limited to:

- Dismissal;
- Demotion;
- Suspension without pay; or
- Involuntary transfer.

Appeal Procedure

Step 1: Filing

Employees must file a written appeal with the Idaho Personnel Commission **within thirty-five (35) calendar days** of written notice of the final agency decision. Once the written appeal is received, it will be reviewed and assigned to a hearing officer. Hearing officers are attorneys hired by the Idaho Personnel Commission to adjudicate appeals.

Step 2: Scheduling of Hearing

The assigned hearing officer will contact both parties **within thirty (30) calendar days** to set a mutually agreeable date for a hearing.

Step 3: Hearing

The hearing officer will conduct an evidentiary hearing into the contested action. The parties may file motions and present evidence including witness testimony at the hearing.

- If the issue on appeal is a disciplinary action, the agency has the burden of proving by a preponderance of the evidence that it had proper cause for the disciplinary action.
- In all other actions, the appellant has the burden of proof by a preponderance of the evidence.

Decision of Hearing Officer

After hearing all of the evidence, the hearing officer will issue a written preliminary decision. A copy of the preliminary decision and order will be mailed to both parties. The hearing officer's preliminary decision becomes final within thirty-five (35) days, unless a petition for review is filed to the Idaho Personnel Commission. In the event a petition for review is filed, the hearing officer's preliminary decision and order is stayed.

Petition for Review

A petition for review is a written appeal of the hearing officer's preliminary decision and must contain the alleged errors of fact or law contained in the preliminary decision. A petition for review must be filed with the Idaho Personnel Commission **no later than thirty-five (35) calendar days** after the hearing officer's preliminary decision is mailed. The Idaho Personnel Commission will hear oral argument from the parties and is limited to reviewing the evidence in the record presented to the hearing officer. The party filing the petition for review is responsible for providing a transcript of the proceedings before the hearing officer.

For more information visit: <http://www.dhr.idaho.gov/ipc.html>