

ISSUE INDEX

The Issue Index is arranged alphabetically. The issue headings appear on the left margin underlined and in bold. Below each heading you will find short, descriptive summaries of the Commission's rationale and holdings. Each summary, in turn, is followed by a citation to the applicable 2010 Commission decision.

NOTE: The summaries are not law. Please refer to the official Commission decisions for the actual text, rationale, and holdings.

Attorney Fees

House Bill 421 was passed to amend Idaho Code § 12-117 to provide the IPC with the authority to award attorney fees and costs.

Idaho Dep't of Environmental Quality v. Goebing, IPC No. 08-07 (Decision and Order on Respondent's Motion to Reopen on Issue of Attorney Fees and Costs, July 1, 2010)

Idaho Dep't of Health and Welfare v. Salisbury, IPC No. 08-12 (Decision and Order on Petition for Review, April 06 2010)

Surline v. Idaho State Police, IPC No. 09-25 (Decision and Order on Petition for Review, May 21, 2010)

The Idaho Personnel Commission may award attorney fees and costs to a prevailing party only in cases where the non-prevailing party has acted without a reasonable basis in fact or law.

Idaho Dep't of Environmental Quality v. Goebing, IPC No. 08-07 (Decision and Order on Respondent's Motion to Reopen on Issue of Attorney Fees and Costs, July 1, 2010)

Surline v. Idaho State Police, IPC No. 09-25 (Decision and Order on Petition for Review, May 21, 2010)

The standard for an award of attorney fees is high. To collect attorney's fees under Idaho Code § 12-117, it must be shown that a non-prevailing party's claims are frivolous, unreasonable, groundless, or in bad faith.

Idaho Dep't of Environmental Quality v. Goebing, IPC No. 08-07 (Decision and Order on Respondent's Motion to Reopen on Issue of Attorney Fees and Costs, July 1, 2010)

Surline v. Idaho State Police, IPC No. 09-25 (Decision and Order on Petition for Review, May 21, 2010)

Jurisdiction

An employee termination appeal must physically received and filed at the Commission within 35 calendar days after completion of the departmental due process procedure. IPC Rule 201.03.

Creacy-Long v. Idaho Dep't of Correction, IPC No. 10-31 (Order of Dismissal, October 19, 2010)

Personal hand-delivery of a Letter of Discipline by the agency completes the departmental due process procedure. IPC Rule 201.03.

Creacy-Long v. Idaho Dep't of Correction, IPC No. 10-31 (Order of Dismissal, October 19, 2010)

Petition for Review

As a general matter, a Hearing Officer's decision is final and cannot be reviewed when a party withdraws a petition for review and the time for appeal has run under I.C. § 67-5316(8).

Idaho Dep't of Environmental Quality v. Goebing, IPC No. 08-07 (Decision and Order on Respondent's Motion to Reopen on Issue of Attorney Fees and Costs, July 1, 2010)

If a hearing officer issues an order that is rendered final, there is no ability to file a petition for review with the District Court since there was no exhaustion of administrative remedies.

Idaho Dep't of Environmental Quality v. Goebing, IPC No. 08-07 (Decision and Order on Respondent's Motion to Reopen on Issue of Attorney Fees and Costs, July 1, 2010)

Rule 190 Discipline

In cases involving Rule 190 discipline, the state must prove by a preponderance of evidence that at least one of the proper cause reasons for dismissal exist, as listed in Idaho Code § 67-5309(n) and IDAPA 15.04.01.190.01.

Idaho Dep't of Environmental Quality v. Goebing, IPC No. 08-07 (Decision and Order on Petition for Review, February 22, 2010)

Idaho Dep't of Health and Welfare v. Salisbury, IPC No. 08-12 (Decision and Order on Petition for Review, April 06 2010)

Jenkins v. Idaho State Liquor Division, IPC No. 09-22 (Decision and Order on Petition for Review, October 22, 2010)

Williams v. Idaho Dep't of Correction, IPC No. 08-25 (Decision and Order on Petition for Review, August 12, 2010)

Unwelcome behavior towards a co-worker that is sexually suggestive constitutes conduct unbecoming a state employee and detrimental to the good order of the Department of Correction.

Williams v. Idaho Dep't of Correction, IPC No. 08-25 (Decision and Order on Petition for Review, August 12, 2010)

It constitutes conduct unbecoming a state employee or conduct detrimental to the good order and discipline in the agency under Rule 190.01.e. for a manager employee to condone and participate in a strip tease held on State premises.

Jenkins v. Idaho State Liquor Division, IPC No. 09-22 (Decision and Order on Petition for Review, October 22, 2010)

Where there is more than one basis alleged supporting discipline, any one violation when proven and constituting proper cause, supports whatever level of discipline was imposed, including dismissal. The Commission does not review the level of discipline imposed.

Williams v. Idaho Dep't of Correction, IPC No. 08-25 (Decision and Order on Petition for Review, August 12, 2010)

Jenkins v. Idaho State Liquor Division, IPC No. 09-22 (Decision and Order on Petition for Review, October 22, 2010)

While consistency of discipline is desirable, it is not an entitlement. If there is cause for discipline, the choice of discipline, if any is within the discretion of the agency.

Jenkins v. Idaho State Liquor Division, IPC No. 09-22 (Decision and Order on Petition for Review, October 22, 2010)

Standard and Scope of Review

When considering a petition for review, the Commission reviews the record of the proceeding below together with any briefs or transcripts submitted by the parties. On petition for review, the Commission may “affirm, reverse or modify the decision of the hearing officer, may remand the matter, or may dismiss it for lack of jurisdiction.” Idaho Code § 67-5317(1).

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Stipulation

A judicial admission limits the issues upon which a cause is to be tried and obviates the necessity for proof of facts within the ambit of a distinct and unequivocal admission.

Idaho Dep't of Environmental Quality v. Goebing, IPC No. 08-07 (Decision and Order on Petition for Review, February 22, 2010)

Summary Judgment

Summary Judgment should be rendered when the pleadings on file, together with any affidavits, show that there is no genuine issue of material fact and the moving party is entitled to judgment in its favor as a matter of law. The facts are to be construed in the light most favorable to the non-moving party.

Jenkins v. Idaho State Liquor Division, IPC No. 09-22 (Decision and Order on Petition for Review, October 22, 2010)