



State of Idaho  
**DIVISION OF HUMAN RESOURCES**  
 Executive Office of the Governor

BRAD LITTLE  
 Governor  
 SUSAN E. BUXTON  
 Administrator

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April 9, 2020

TO: Agency Directors, Administrators, and Leadership

CC: Agency Human Resources

FROM: Susan E. Buxton, Administrator  
 Division of Human Resources 

SUBJECT: **Temporary Suspension of Specific Regulations Due to COVID-19**

A complete list of the Division of Human Resources (DHR) waived regulations are provided in this document. These regulatory waivers have been approved to support agencies in their efforts to continue operations through the COVID-19 pandemic. The section of the waived regulation is *italicized* **and** is highlighted in blue below. The section of the regulation with additional language is highlighted in red underline and deletions are highlighted in red with strike out.

	Statute/Rule	Waivers	Explanation
<b>Temporary Positions</b>	67-5302(22) Definition of part-time employee.	"Part-time employee" means any employee whose usually scheduled work is fewer than forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours, and <i>who shall not be entitled to sick leave accruals provided in section 67-5333,</i> Idaho Code, vacation leave provided in section 67-5334, Idaho Code, nor holiday pay as defined in subsection (15) of this section, unless contributions are being made to the public employee retirement system in accordance	This temporary waiver allows part time employees to receive COVID-19 leave, if eligible.

<b>Temporary Positions Continued</b>		with chapter 13, title 59, Idaho Code, and rules promulgated by the public employee retirement system board.	
	67-5302(35) Definition of temporary appointment.	<p>"Temporary appointment" means appointment to a position that is not permanent in nature and in <i>which employment will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period. No person holding a temporary appointment may work in excess of one thousand three hundred eighty-five (1,385) hours during a twelve (12) month period of time for any one (1) department, except upon petition by the appointing authority of the department of lands that demonstrates good cause, the administrator of the division of human resources may extend the one thousand three hundred eighty-five (1,385) hour limit for employees of the department who are required to perform fire suppression activities.</i></p> <p><i>Temporary appointments are limited to one thousand three hundred eighty-five (1,385) hours of</i></p>	This temporary waiver lifts the limits on the number of hours or the number of months a temporary can work for an agency.
	<p>Related Rule: 150.04.01.122. 01. Temporary appointments (non-classified). Hour limitation.</p>		

		<i>work in any twelve (12) month period for any one agency. Both calculations begin on the date of the original temporary appointment.</i>	
<b>Advanced Sick Leave Eligibility</b>	67-5333(d) Sick leave.  Related Rule: 15.04.01.240.01 Sick leave eligibility.	<i>Sick leave shall not be taken in advance of being earned and shall only be taken in pay periods subsequent to being earned.</i>  <i>Sick leave is earned in accordance with Section 67-5333, Idaho Code. Sick leave must only be taken in pay periods subsequent to being earned.</i>	This temporary waiver for sick leave will allow agencies to approve the COVID-19 Advanced Sick Leave option to employees.
<b>Donated Leave</b>	67-5334(2)(g) Vacation Time.  Related Rule: 15.04.01.240.06 Donated Leave.	With the approval of the appointing authority for both the transferring and receiving officer or employee, an officer or employee may transfer accrued <i>vacation</i> leave, up to a maximum of eighty (80) hours per fiscal year, to another officer or employee for purposes of sick leave in the event the receiving officer or employee or a family member suffers from a serious illness or injury. The amount transferred shall be converted to sick leave.  <i>Vacation leave may be transferred to another employee for purposes</i>	This temporary waiver allows employees to donate <b>sick and vacation</b> leave to other employees who have exhausted their sick leave balances or are not eligible to accrue sick leave related to COVID-19.

		<i>of sick leave in accordance with section 67-5334, Idaho Code such transfers are to be made from employee to employee. Vacation leave is retained by the donating party until it is converted to sick leave in the receiving employee's account.</i>	
<b>Reclassification of Positions</b>	Rule 150.04.01.067.01 Procedure.	Positions may be reclassified in the same pay grade, upward, or downward as determined by an analysis by the Division of Human Resources of the duties and responsibilities assigned by appointing authorities to specific positions. <i>An incumbent occupying a reclassified position shall be properly classified by an appointing authority within thirty (30) calendar days of being notified by the administrator that the duties and responsibilities assigned to the position are not properly classified.</i>	This temporary waiver allows agencies to temporarily reclassify employees to perform job duties outside their current classification for continuity of operations due to COVID-19. The temporary classification must be in the same FLSA category as the employee's assigned classification.
	Rule 15.04.01.067.02 Effective date.	<i>Reclassifications of positions shall not be effective until they are approved by the administrator, but may be retroactive to the beginning of the pay period during which approval is granted.</i>	This temporary waiver allows agencies to reclassify positions without the administrator's approval.

<p><b>Reclassification of Positions Continued</b></p>		<p>Reclassification of an employee shall not precede the effective date of the reclassification of the position.</p>	
	<p>Rule 150.04.01.068. Violations.</p>	<p>Accurate position classification is the foundation for providing equal pay for equal work, identification of actual work performed, fair employment and equal opportunity for promotions, and equitable compensation. <i>Upon the administrator's determination that classification rules have been violated, the appointing authority will be informed and provided thirty (30) days to take actions necessary to correct the situation or submit a corrective action plan to the administrator. If these actions do not occur, the administrator will inform the employee, the appointing authority, and the state controller that the employee is being compensated in violation of these rules.</i></p>	<p>This temporarily waives the violation of classification rules.</p>
<p><b>Leave During Facility Closure of Inaccessibility</b></p>	<p>Rule: 15.04.01.250.08 Leave During Facility Closure or Inaccessibility.</p>	<p>a. Authorization. When a state office/facility is closed or declared inaccessible by the Governor or Governor's designee because of severe weather, civil</p>	

<p style="text-align: center;"><b>Leave During Facility Closure of Inaccessibility Continued</b></p>		<p>disturbances, loss of utilities or other disruptions, affected employees <u>who are unable to work remotely or be reassigned may be: are</u> authorized administrative leave <u>by the [DHR] administrator</u> to cover all <u>or a portion of</u> their scheduled hours of work during the closure or inaccessibility <u>or subject to a mandatory furlough or a reduction in force.</u> If an employee was not scheduled to work on the day when an office/facility is declared closed, the employee is not eligible for administrative leave. (3-25- 20)</p> <p>b. In the interest of employee safety, appointing authorities may approve employee early release, delayed start time, or absence from work due to weather or other emergency conditions. Those affected employees will use their <del>accrued</del> leave balances or leave without pay. Administrative leave <u>or leave without pay</u> may be granted to affected employees scheduled to work on a day the Governor or Governor’s designee declares a state office/facility closed or</p>	
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		<p>inaccessible in accordance with Rule 250.08.a. (3-25-20)</p> <p><u>c. Nothing in this rule prevents an employee that is authorized to code paid administrative leave from choosing to code accrued leave balances or leave without pay. (3-25-20)</u></p>	
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**TERM OF WAIVERS**

These waivers described herein lapse no later than December 31, 2020, unless terminated or extended by notice of the DHR Administrator.