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§4980H

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## TEMPORARY EMPLOYMENT

### I. INTRODUCTION

This regulation sets forth the parameters departments are to follow when recruiting and employing workers on a temporary basis. Temporary employment is seasonal, intermittent, or sporadic by nature. This regulation applies to the hiring of all temporary workers unless otherwise outlined within a current collective labor agreement, civil service rule, or City policy or regulation.

The Mayor and City Council may select workers to serve in their respective offices by whatever employment process deemed reasonable by the Mayor and/or City Council and consistent with Boise City Code and applicable laws.

All temporary workers are at-will.

### II. TYPES OF TEMPORARY EMPLOYMENT

The City of Boise has three categories of temporary employment: 1) short-term, 2) 19-hour, and 3) long-term. Temporary employment assignments that are "short-term" are estimated to last up to four (4) months and are generally seasonal. Temporary employment assignments that are "19-hour" are ongoing and cannot exceed 19 hours per week. Temporary employment assignments that are "long-term" are in excess of 19 hours per week and estimated to last at least four (4) months, but cannot exceed nine (9) consecutive months.

### III. HIRING A TEMPORARY WORKER

To hire a short-term, 19-hour, or long-term temporary worker, departments are required to follow one of the hiring processes outlined in the applicable City regulation as follows:

1. Hiring Process Regulation 2.01a; or
2. Promotion, Transfer, or Temporary Reassignment of a Current Employee 2.01h; or
3. Rehiring a Former Employee 2.01i

All temporary workers shall be hired through a competitive hiring process, making them eligible for promotion within their own department.

IV. SHORT-TERM TEMPORARY EMPLOYMENT (Up to 4 months)

A. Short-Term Temporary Employment Defined

Short-term temporary employment can be up to 40 hours per week and last up to four (4) consecutive months. It is generally seasonal in nature, such as lifeguards, swim instructors, and summer play camp leaders.

B. Service Limits for Short-Term Temporary Employment

Individuals who are hired for a short-term temporary assignment are permitted to work up to four (4) consecutive months. The four-month time period begins on the first day of employment. At the end of the four-month time period, the individual's short-term temporary employment must be terminated. The department is required to formalize the termination by submitting a status sheet to Human Resources effectuating the individual's termination.

A short-term temporary worker who has reached the four-month maximum is not eligible to work in another temporary assignment with the City of Boise for at least 90 consecutive days. If a short-term temporary worker stops work and terminates from the City completely for 90 consecutive days during their four-month eligibility period, they are eligible to begin a new four-month eligibility period following the 90-day break in service.

V. 19-HOUR TEMPORARY EMPLOYMENT (19 hours or less per week)

A. 19-Hour Temporary Employment Defined

A 19-hour temporary worker is one whose regular work schedule is 19 hours or less per week. A 19-hour temporary worker may continue to work on an on-going basis without a break in service. Note: Paid holiday hours [not actually worked] do not count toward the 19 hours.

B. Service Exception for 19-hour Temporary Employment

A 19-hour temporary worker may work in excess of 19 hours per week in ten (10) FLSA separate or consecutive workweeks per calendar year, i.e. January to December, and still maintain their 19-hour exception status.

If a department would like a 19-hour temporary worker to work in excess of 19 hours per week in eleven (11) or more FLSA separate or consecutive workweeks within a calendar year, the department must convert the temporary worker to a nine-month temporary worker. The effective date of the conversion shall be the first workday of the first FLSA workweek the worker exceeded 19 hours.

Upon conversion to a nine-month long-term temporary worker, the worker becomes eligible for PERSI, and contributions by both the

worker and the employer will now be required. In some circumstances PERSI may determine contributions are due retroactively for the 10 weeks worked in excess of 19 hours.

To formalize the conversion the department shall submit a status sheet to Human Resources ending the temporary worker's 19-hour assignment and beginning their nine-month assignment. Once the 19-hour temporary worker is converted to a nine-month temporary worker the department shall abide by the provisions of the long-term service limits in Section VI of this regulation and are prohibited from converting the nine-month temporary worker back to a 19-hour temporary worker until a 90-day break in service has occurred.

## VI. LONG-TERM TEMPORARY EMPLOYMENT (Four-to-Nine Months)

### A. Long-Term Temporary Employment Defined

Long-term temporary employment is defined as work in excess of 19 hours per week estimated to last at least four (4) consecutive months, but is not permitted to exceed nine (9) consecutive months.

### B. Service Limits for Long-Term Temporary Employment

Individuals who are hired for a long-term temporary assignment, or who work a combination of temporary assignments within the City, are permitted to work a time period not to exceed nine (9) consecutive months. The nine-month time period begins with the first day an individual performs work in any temporary assignment with the City and counts forward nine consecutive months. Once the nine-month time period is expired, the individual's long-term temporary employment must be terminated. The department is required to formalize the termination by submitting a status sheet to Human Resources effectuating the individual's termination.

A temporary worker who has reached the nine-month maximum is not eligible to work in another temporary assignment with the City of Boise for at least 90 consecutive days. If a long-term temporary worker stops work and terminates from the City completely for 90 consecutive days during their nine-month eligibility period, they are eligible to begin a new nine-month eligibility period following the 90-day break in service.

## VII. EXCEPTIONS TO LONG-TERM TEMPORARY EMPLOYMENT

There are two exceptions to long-term temporary employment: 1) PERSI Retiree, and 2) 8-month Seasonal Maintenance Worker (SMW) or 8-month Seasonal Agricultural Worker (SAW).

### A. PERSI Retiree Exception

Because of Idaho retirement rules, the following restrictions apply to a long-term temporary worker who is currently receiving retirement benefits through Idaho's PERSI system:

1. A retiree may return to employment with a PERSI employer after they satisfy the 90-day break in service requirement. The 90-days begin from the date of PERSI retirement, not the actual date of separation. PERSI retirement begins the first of the month following the date of retirement with the City. This rule does not apply to retirees who have reached Service Retirement age (65 years).
2. A retiree working in excess of 19 hours per week can work up to five (5) consecutive months without jeopardizing their retirement benefits. Upon reaching five months, the retired temporary worker must sever employment for at least 30 days. After a minimum 30-day break the retiree is eligible to be rehired for an additional three (3) months, but in no event is the retiree permitted to work beyond nine (9) consecutive months, starting from the first workday of the original 5-month work assignment. At the end of 9 consecutive months, the retiree must be terminated for 90 consecutive days before they are eligible for rehire. The department shall formalize the separation(s) by submitting a status sheet to Human Resources.
3. A retiree working 19 hours or less per week may continue working on an on-going basis without a break in service.

B. 8-month Seasonal Maintenance/Agricultural Worker Exception

According to Idaho law, 8-month seasonal employment is temporary or casual work related to weather and has an exemption from paying into PERSI. There are two types of 8-month seasonal worker: 1) seasonal maintenance worker (SMW) and 2) seasonal agricultural worker (SAW). Both can work in excess of 19 hours per week, but are limited to eight (8) consecutive months of work. If the work assignment goes beyond 8 months, the PERSI exemption becomes void and the individual and the employer will be required to contribute to PERSI retroactively from the first workday of the 8-month employment assignment.

An 8-month seasonal maintenance/agricultural worker may start their eight-month work assignment at any time during the year.

VIII. PATIENT PROTECTION AND AFFORDABLE CARE ACT (PPACA)

Effective January 1, 2016 the City must comply with certain provisions of the federal Patient Protection and Affordable Care Act (PPACA). The employer mandate provision requires employers to offer health insurance to at least 95% their full-time workers. For the purposes of PPACA, *"full-time" is defined as, with respect to any month, an employee who is employed on average at least 30 hours of service per week.*

To comply with this requirement, the City will offer qualified health coverage to any employee who may be reasonably expected to work 30 or more hours per week on a regular basis at the time they are hired.

In the event where the City cannot reasonably determine an employee will regularly work 30 or more hours per week or where a temporary employee falls under an exception as a "Seasonal" or "Variable Hour" worker in accordance to the definition under PPACA the City will use a 12-month "look back" methodology to determine full-time status.

Seasonal is defined under PPACA as an employee in a position for which the customary annual employment is six months or less and that period should begin each calendar year in approximately the same part of the year. Variable Hour is defined under PPACA where, based on the facts and circumstances at the employee's start date, the City cannot determine whether the employee is reasonably expected to work an average of at least 30 hours per week.

Hours worked in any current year will be used to determine full-time status the following calendar year.

IX. PERSI CONTRIBUTIONS REQUIRED BY IDAHO LAW

Idaho law requires PERSI contributions by the worker and the employer for all workers, including temporary workers, who normally work in excess of 19 hours per week for longer than five (5) consecutive months. This includes 9-month long-term temporary workers, and 19-hour temporary workers who work in excess of 19 hours per week for more than ten (10) FLSA consecutive workweeks in a calendar year. As specified earlier in this regulation, PERSI Retirees and 8-month Seasonal Maintenance/Agricultural Workers are exempt from PERSI contributions as long as their work assignments remains within the parameters outlined within this regulation.

X. TRACKING OF TEMPORARY WORKER HOURS

Each department is responsible for accurately tracking the working hours of temporary workers in order to ensure compliance with this regulation. If/when a temporary worker reaches one of the thresholds outlined within this regulation, the supervisor is required to send a status sheet to Human Resources effectuating the end of service, and the temporary worker will not be eligible for reemployment in any department or capacity until the appropriate separation period has elapsed.

Any temporary worker who remains active in the system, but has not worked for nine consecutive months must be terminated by the department. The department is required to formalize the termination by submitting a status sheet to Human Resources effectuating the individual's termination.

XI. GRANT OR CONTRACT EXCEPTION

The City sporadically receives grant funds or enters into contracts that require the employment of temporary workers for a length of time that does not conform to this regulation. In those situations the grant or contract terms will be followed.