

<b>OUTFITTERS &amp; GUIDES LICENSING BOARD</b>	<b>POLICY NUMBER:</b> 3008	<b>PAGE NUMBER:</b> 1 of 5
	<b>SUBJECT:</b> Standards for Setting Administrative & Disciplinary Probation; For Setting & Recovering Fines and Fees	Drafted: 10/26/2012 Adopted: 6/12/14 Revised: Reformatted: 10/26/15

## **POLICY OF THE AGENCY**

It is the policy of the Board that the Agency staff and the Board use the following system for determining and applying probationary status and setting fines and fees. This policy ensures that a consistent standard is applied by the Executive Director and the Board.

## **ANALYSIS**

The Board is charged with safeguarding the health, safety, and welfare of the public when utilizing the services of outfitters and guides, and with the conservation of wildlife and range resources.

The Board as a state agency complies with applicable state statutes and rules regarding the licensing of applicants as Outfitters and Guides and the discipline of licensed Outfitters and Guides for violations of statutes and rules. The Board's administrative jurisdiction extends to those persons and organizations applying for a license, and to those who are licensed to conduct outfitted and guiding services in the State of Idaho and who were licensed at the time of alleged misconduct.

The Board's laws and rules require that applicants with a criminal history be subject to additional analysis, review and Board approval depending upon the circumstances. Doing so requires a careful consideration and balancing of the Board's financial and personnel resources-

Therefore, to clarify the delegated responsibility to the Executive Director, it is the policy of the Board, that the Executive Director placing restrictions on new and renewal applicants will be designated as "General Probation" as provided below. Additionally, the Executive Director may defer any application to the Board for any reason.

Furthermore, it is the policy of the Board that Board actions involving probation will be known as "Non- Restrictive Probation" or "Restrictive Probation" as provided below:

## **PROCEDURE**

1. **General Probation** - New outfitter, Designated Agent or Guide applicants that have historical criminal convictions (or for relicensing guide applicants with a new criminal conviction or a conviction that was not previously disclosed) that do not require a mandatory appearance before the Board as required by law or as provided in policy 4007 – 2011 may be placed on a one (1) year General Probation at the discretion of the Director at the time of licensure. The conditions of probation will be set forth in writing by the Executive Director and will be no more restrictive than Non-Restrictive Probation as set forth below.
  - a. This allows the applicant to be licensed immediately for the outfitter.
  - b. Allows the licensing staff to monitor licensee for any misconduct issues.
  - c. Completion of the probationary period allows for quick renewal of next year's license.

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- d. This allows the Director discretion to require applicants to appear before the Board regarding any subsequent license applications or amendments.
- e. These individuals may appeal the Director's decision to the Board.

Licensees may be placed on a general probationary period due to action by order of Director by citation, written warning or letter of concern. The probationary period will start the date of the payment received on cost recovery for special handling of the application and/or mailing of Letter of Intended Action as determined by the Director.

- a.) Example: 1 year general probation and fees paid June 1st, 2014 and completion of probationary period on June 1st, 2015.

New applications of licenses that have completed background by enforcement then ordered probationary status by Director have been for 1 year general probation. These new licensees have some criminal history that has been deemed more serious, however not requiring denial/deferral with Board. Thus in allowing the probationary license as a "see how the applicant conducts themselves", we do not hinder employment with the outfitter or guide and therefore allow the training, and possible career choice of the new applicant. These new licenses will be upon the date of license issued, be placed with the general probationary period ending one (1) year forward of that date.

- 2. **Non- Restrictive Probation, Restrictive Probation or denial by the Board.** Other applicants with licensure issues are required to appear before the Board in an administrative review prior to licensure based upon the statutes, rules or Board policy. Licensees facing prosecution for alleged violations of statutes or rules will be brought before the Board in a disciplinary hearing. Based upon a finding of a violation, the Board may take one of the following actions:

*In these instances, IOGLB will not schedule a special board hearing or a meeting for review, and the licensee must wait until the next scheduled Board meeting for review. Prior to, during a hearing and at its conclusion, it is the Board's policy for individual members to not discuss terms or agree to allow amendments to any license. Pursuant to Section State Statute 67-5253, Idaho Code, licensees, applicants or their representative are prohibited from contact with any Board member or Hearing Officer with regard to this matter prior to a hearing.*

- a. **Non-Restrictive** – In appropriate cases, the Board may issue a non-restrictive probation. The terms of probation should be clearly set forth in the Board's Order. If applicant is granted a license, applicant or the existing outfitter must immediately complete any final requirement for that license to be issued on following conditions:
  - i. License fees and special processing fees must be paid in full prior to issuance.
  - ii. Fines and fees may only be ordered in cases where there has been a disciplinary proceeding and a finding of a violation of the statutes and rules by existing

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licensees. In this circumstance the fines and fees must be paid in full prior to issuance of a license

1. Fines or fees must be paid in full within ten (10) days of the formal order.

2. Special processing fees must be paid in full within ten (10) days of the formal order.

3. Restitution/Cost Recovery must be paid in full within ten (10) days of the formal order.

- iii. Should a payment be missed, the Director shall notify the licensee that he is in violation of a Board Order and the Director may initiate a proceeding for an emergency license suspension hearing. The Board may further impose additional penalties and take additional action up to and including suspension of the license and ordering the licensee to cease and desist operations based upon said violation.
- iv. All necessary paperwork must be completed fully and received by the Board's staff.
- v. All other requirements such as, but not limited to, training, back ground checks or successful completion of the outfitter examination must be completed successfully.
- vi. The licensee will be allowed to amend his/her license(s) to add other license activities, or areas or outfitters. This allows the Director discretion to require applicants to appear before the Board regarding any subsequent violations, license applications or amendments.
- vii. Licenses placed on Non-restrictive probation by Licensing Board, or by Stipulation approved by Licensing Board, will start probation upon a completed and signed Board Order, or may also start on completion of paid fines and/or restitution, if Board so ordered.

b. **Restrictive Probation** - Outfitters, Designated Agents and Guides can only be placed on a restrictive probation as ordered by the Board. If placed on a restrictive probation status the Board order shall include:

- i. The existing outfitter must immediately complete any final application requirements for that license to be issued.
- ii. License fees and special processing fees must be paid in full prior to issuance.
- iii. Fines, fees and restitution may only be ordered in cases where there has been a disciplinary proceeding and a finding of a violation of the statutes and rules by existing licensees. In this circumstance the fines and restitution must be paid in full prior to issuance.
- iv. Licensees may at the time of the Board decision request additional time to pay fees and fines which terms must be included in the Board's order.
  - 1. In certain instances, the Board may allow a payment plan to be negotiated by the Executive Director following the hearing. The licensee's ability to do this must be stated in the Board's order.

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2. In either instance, all payments must be completed within the remaining license year or in a period of no more than 12 months from the date of the Board order provided there is certainty that the licensee will be issued a subsequent year's license.
  3. Otherwise:
    - a. Fines or fees must be paid in full within 10 days of the formal order.
    - b. Special processing fees must be paid in full within 10 days of the formal order.
  - v. Restitution/Cost Recovery must be paid in full within 10 days of the formal order. Should a payment be missed, the Director shall notify the licensee that he is in violation of a Board order and the Director may initiate a proceeding for an emergency license suspension hearing. The Board may further impose additional penalties and take additional action up to and including suspension of the license and ordering the licensee to cease and desist operations based upon said violation.
  - vi. The licensed guides will not be allowed to amend of his/her license(s) to add other license activities, or areas or outfitters during the probation period.
  - vii. Outfitters or Designated Agents on probation will not be allowed to amend his/her license(s) to add other license activities or areas; to apply for one time controlled trophy species hunts, or for other special authorizations. Designated Agents on probation will not be allowed to amend their licenses in order to work for another outfitter.
  - viii. If the individual violates any terms of probation, or otherwise is subject to discipline, the Director may initiate a proceeding for an emergency license suspension hearing. The Board may impose additional penalties and take additional action up to and including suspension of the license and ordering the licensee to cease and desist operations based upon said violation.
  - ix. Licensees placed on Restrictive Probation by the Licensing Board, or by Stipulation approved by the Licensing Board, will start probation upon a completed and signed Board Order, or may also start on completion of paid fines and/or restitution if Board so ordered.
- c. **License Denial** – The Board may deny a license application based upon an applicant's failure to qualify or based upon a ground set forth in statutes or rules. If licensee/applicant is denied a license by the Board, he must wait one full year from the time of the Order of the Board to submit another application for licensing.
3. **Licenses** - The licensing board has at times granted probationary licenses for 1 or 2 years during a hearing, without explanation of when the licensee starts or completes the probation. In years past the probation would expire upon re-licensing on March 31<sup>st</sup> of the following year. This is not workable any more since if a licensee received a 1 year probation say in November 2013 his probation would end March 31, 2014, this only being 4 or 5 months in total probation.

IOGLB's database now allows an option when the license is printed for the applicant,

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licensee. Before we could print on the face of the license in red "Probationary License". This of course does not explain whether the probation is general, non-restrictive, or a restrictive license. Now the license can be red printed that "Probation Ends 04/22/2014", or "General Probation ends 04/22/2014", or "Restrictive/Non-Restrictive Probation ends 04/22/2014".

- a. This allows Law Enforcement in the field during inspection, to see the probationary status on the license, since all licensees are mandated to have the license on their person when in a outfitted or guided activity. It allows Law Enforcement to inquire further if needed with IOGLB the status of the licensed applicant.
- b. It also allows the licensee and his employing outfitter to know the probationary status they are under, as well as when that probationary period ends.